

ILLINOIS POLLUTION CONTROL BOARD  
February 6, 1992

IN THE MATTER OF: )  
 )  
USED AND WASTE TIRE REGULATIONS ) R90-9B  
(35 Ill. Adm. Code 848) ) (Rulemaking)  
(35 Ill. Adm. Code 849) )

ADOPTED RULE. FINAL ORDER.

OPINION AND ORDER OF THE BOARD (by J.C. Marlin):

On August 8, 1991 the Board proposed these rules for first notice publication in the Illinois Register. This docket, R90-9B, was opened for the purpose of repealing the current scrap tire management standards (35 Ill. Adm. Code 849), for further consideration of the retreader/recyclers exemption contained in Docket A of this rule (adopted April 25, 1991) and for further refinement of the rules. The proposed amendments to Part 848 was published in the Illinois Register on September 6, 1991 (15 Ill. Reg. 13004); the proposed repeal of Part 849 on September 13, 1991 (15 Ill. Reg. 13265). On February 4, 1992 the Joint Committee on Administrative Rules considered these rules and the agreed changes to them and issued its certificate of no objection. Today the Board votes to send these rules to the Secretary of State for final notice publication in the Illinois Register.

PUBLIC PARTICIPATION

A hearing was held in this matter on September 27, 1991 at the State of Illinois Center, Chicago, Illinois.<sup>1</sup> Mr. Paul Purseglove of the Illinois Environmental Protection Agency ("Agency"), Mr. Richard Gust of Lakin General Corporation, Mr. Kenneth Kirby of Aztech Systems, Inc., Mr. John Funk of We Shred It, Dr. Robert Novak of the Illinois Natural History Survey and Mr. Lloyd Renfro of the Illinois State Tire Dealers and Retreaders Association testified.

Public comments were received from Archer Daniels Midland Company (PC 15), Lakin General Corporation (PCs 16, 21), Illinois Department of Energy and Natural Resources (PC 17), the Administrative Code Division of the Illinois Secretary of State's Office (PCs 18, 19), Midwest Rubber Reclaiming (PC 20), the Illinois Department of Commerce and Community Affairs (PCs 22, 23), the Agency (PC 24) and the Illinois Department of Public

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<sup>1</sup> References to the record of this hearing are denoted "3R. \_\_\_". References to the hearings in Docket A of this rule are denoted "1R. \_\_\_" for the June 22, 1990 hearing and "2R. \_\_\_" for those of the August 9, 1990 hearing.

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The Board wishes to acknowledge Anand Rao of the Board's Scientific and Technical Section and Board Attorney Marie Tipsord for their contributions to this rulemaking and, in addition, the efforts of Mark P. Miller, the Hearing Officer for this matter.

Health. (PC 25) None of the public comments received concerned the repeal of Part 849, with the exception of formatting and style changes suggested by the Administrative Code Division (PC 19). The balance of the public comments are discussed under the section by section discussion below.

#### PART 849

The Board decides today to send the repeal of the Part 849 management standards to final notice publication in the Illinois Register. This is done in order to repeal the existing management standards so that the "old" and "new" management standards do not overlap. The new Part 848 management standards became effective on January 1, 1992.

#### PART 848

##### Section 848.101      Applicability

Much of the testimony at the September 27, 1991 hearing focused on exemptions to the proposed Part 848 management standards. Mr. Ken Kirby, testifying on behalf of Aztech Systems, Inc., asked the Board to consider a request to provide relief for whole tires that were to be chipped or shredded. Mr. Kirby maintained that the whole tires, chipped to a common size for possible burning as supplemental fuel, were "reused tire" as defined in Public Act 86-452 deserving of a financial incentive to ensure their continued production. (3R.49-50) This exemption should be, in his opinion, provided "on site" at the processing plant as opposed to being given to the tire collector itself (3R.52) The Agency, however, objected to any relief if it was given before the tires became tire-derived fuel (TDF). (3R.56)

Under the Act, a "reused tire" means "a used tire that is used again, in part or as whole, by being employed in a particular function or application as an effective substitute for a commercial product or fuel without having been converted". (Sec. 54.08 of the Act). However, a whole tire which is intended for reuse and which intention is corroborated by its presence at a processing facility is not a "reused tire" under the statutory definition. Nor does the Board believe that the legislature intended to make it so. The wording of the statute makes it clear to the contrary. The Board agreed with the Agency, therefore, that these tires are not "reused tires".

The Agency supported an exemption from the regulations for truly reused tires however. (3R.11) The Agency testified that it was inappropriate to regulate these types of used tires and pointed out that its initial proposal to the Board exempted reused tires from regulation. These tires, employed in such uses as boat dock cushions, road barriers or flower boxes do not pose, given their form, a cognizable threat to public health. The

Board concluded, therefore, that they should not be subject to Part 848 management standards provided they are altered to prevent accumulation of water.

In a similar manner, the Agency believed that the Board should reconsider its previous decision not to exclude small tire chips from the Part 848 management standards. The Agency testified:

Illinois is on the verge of establishing good markets for TDF, and in doing so establishing outlets for the waste tires that are generated and stockpiled around the state. No doubt, the financial assurance requirement established in the 848 rules present a significant financial impact on companies that process tires into TDF.

\* \* \*

It is clear that a market for 1 to 2 inch TDF is emerging within Illinois. Facilities in Illinois that have conducted test burns of tire derived fuel include:

The Archer Daniels Midland facilities in Decatur, which is fully permitted to burn TDF that is 1 3/4 inches in size.

Monsanto Chemical in Sauget is permitted to burn TDF that is 2 inches in size.

Illinois Power in Baldwin has conducted a test and can burn TDF that is one inch in size.

Illinois Cement in LaSalle has conducted a test recently while burning 3 inch TDF.

Caterpillar Tractor in Mossville has conducted a test of TDF while burning 2 inches of TDF.

(3R.13-14)

The Agency testified that it is unlikely that TDF will be abandoned once a facility has undergone the expense of shredding whole tires into TDF. The shredding costs reported to the Agency range between 14 to 40 dollars per ton, (3R.14). The Agency

believes that unless a financial incentive to process whole tires into TDF is given, processors will only conduct primary shredding. This would leave a material that is unusable and which truly needs to be covered by financial assurance. (3R.15) IDENR concurred with the Agency's remarks and urged the Board to exempt processor of TDF from the financial assurance requirements. (PC 17)

To alleviate the concerns regarding reused tires and TDF, the Agency recommended that the Board insert a sentence into Section 848.101 "Applicability" which reads:

This Part shall not apply to converted, new, reprocessed or reused tires. This Part shall not apply to altered tires which have been chopped, shredded or otherwise processed such that the maximum dimensions of the chopped, shredded or processed portions of the tire are 2 inches or less.

(3R.15)

The Board agreed that an exemption from the regulations should be given for tires processed into TDF and other small sizes such as crumb rubber. The question was how to define TDF and from what portions of the Part 848 standards the exemption should be given. The Agency suggested exempting tires processed so their dimensions are 2 inches or less. (Id.) Mr. John Funk testified that in his shredding operation, the product was "2 inch nominal", two sides have dimensions of two inches or less but the third side exceeds 2 inches occasionally. (3R.64) A study introduced into the record by IDENR suggests that a chip two to three inches in diameter should be called TDF. (Exh. 14, p. 54) No engineer has defined the term. (Id.) Mr. Funk testified, however, that his business has recently purchased a shredding attachment which will take all outside dimensions down to 2 inches or less. This was done in order to meet market expectations. (3R.67) IDENR stated in its most recent comments that the appropriate shredded chip size should be "2 inch minus" meaning 2 inches or less in depth, length and width. (PC 17) A financial assurance exemption, stated IDENR, could provide an incentive for processors to shred whole tires into smaller, even more marketable sizes. (Id.)

If the Board were to adopt a standard definition of TDF which expresses the product size as "2 inch minus" or "2 inch nominal", it appears that the test burn of Illinois Cement in LaSalle would be excluded. Illinois Cement apparently burned 3 inch tire chips successfully. The other Agency-permitted burns were 2 inches in size or less. However, the Board believes that should it adopt a standard of "two inch minus", the resulting product would be more marketable in Illinois. The existing

shredders have been shown to be sensitive to these market concerns and are already moving toward this standard. Therefore, the Board chose to limit exemption to the "two inch minus" standard and inserted an exemption for such TDF into the applicability section of 848.101.

Section 848.205          Pesticide Treatment

In PC 25, the Illinois Department of Public Health (IDPH) requested that the rules specify that the primary method of mosquito control should be pesticides labelled for control of mosquito larvae or non-chemical methods that eliminate mosquito larvae (emphasis in original). This point was echoed by Dr. Novak, a medical entomologist, in his testimony. (3R.88) Fogging to kill adult mosquitoes does not address the underlying problem of larval production and should thus be considered only as an infrequent supplement to larval control. Adult mosquitoes are often produced in one area and fly to another. Killing adults will not stop others from flying in on subsequent days to lay eggs. Larval control will stop most mosquito production at a given site. The proposal now specifies the use of a pesticide labelled for larval control unless an adult mosquito problem is identified. The rule already emphasizes non-chemical control by mandating steps to keep water from accumulating in tires at most sites.

Title XIV of the Act contains two references to pesticides that have caused confusion throughout this proceeding. Section 55(i) states "No person shall cause or allow the use of pesticides to treat tires except as prescribed by Board regulations". Section 55.2 (b) says, "In addition, such regulations shall prohibit the use of pesticides as an ongoing means of demonstrating compliance with this Title."

IDPH expressed concern that this could be interpreted to mean that pesticide treatment be eliminated as a method of management. (PC 25) Dr. Novak had similar concerns:

"I was quite taken aback when I heard that pesticides were no longer considered as a mechanism in order to provide a management way of dealing with tires. Again, going back to the original intent of the legislation and the rules was to prevent a public health situation.

We feel that under many circumstances the use of an approved pesticide is the only way at this particular time to deal with this problem. However, you do understand that with the Agency the use of a pesticide over extended periods of time should not be a way

of provide a solution to our problem."

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"So, again, I would really like the Board to reconsider the use of pesticides that have been approved as compliance to regulate or to manage mosquitos."

(3R.78-79)

At hearing the discussion focused on the need to use pesticides only to address a specific infestation problem (3R. 108-113). It was generally agreed that the prohibition against ongoing use was aimed at preventing frequent spraying without inspection. Dr. Novak pointed out that there are many tire piles in the state that will not be removed or recycled in the near term and that pesticide treatment of such tires is a practical means of controlling mosquitoes. He also noted that there were four Illinois children who became ill with encephalitis in 1991 and all of them were in direct association with waste tires. He also said the program of larval control based on inspection at the Lakin facility has proven economical and effective.

The Board believed that the use of pesticides in response to an inspection which finds mosquito larvae present was intended by the Act. Likewise, the use of approved larvicides in tires that are awaiting shipment to a processor was reasonable. The Board also noted that the Illinois Pesticide Act was amended to allow uncertified persons to apply certain selected pesticides to tires. The prolonged use of pesticides on a specific pile of tires as a long term alternative to cleanup or processing of the tires would, however, violate the prohibition against ongoing pesticide use.

It is important to realize that 100 percent control of mosquitoes in tires is not practical. IDPH (PC 25) and Dr. Novak (3R.82) both made this point. They both suggested that 90 percent control was attainable and would protect the public health. The suggestion was that for purposes of enforcement, especially in large tire piles, that a standard of 90% control be established. IDPH established this as meaning that "mosquito larvae are absent in 90% of tires containing water." (PC 25) Dr. Novak agreed with this proposal:

"However, as a general rule, using a percent makes a lots of sense on piles of 100 or more. When you start looking at tire accumulations of 100 or fewer, they are very easy to control to essentially make sure you get material in all of the hundred tires.

Once you start working with piles that are 100 or greater, then the logistics of control becomes more difficult. So, again, the Board may want to consider a minimum number of tires. I would say that if you have a tire pile of 100 or more that the 90 percent rule is a very good one. Tire piles of 100 or fewer I would question the 90 percent rule.

(3R.97)

The enforcement of rules relating to vector production in tires will be viewed in light of the testimony on the impracticality of achieving 100 percent control. The Board did not adopt a rigid numerical standard, but will now review each situation on its own merits. Persons wishing to demonstrate a violation should be prepared to provide evidence beyond the fact that a mosquito larva was found in a container.

IDPH also requested that it continue to review alternate management plans. This function was contained in Section 849.105 of the "old" management standards which are repealed in this proposal. The management plan concept was moved to Sections 848.206 and 207. At hearing the Agency said it had "no problem" with IDPH being involved (3R.104) but did request that IDPH act quickly in reviewing plans. (3R.111) The Board restored IDPH to the review process, and placed a deadline on IDPH review. After 45 days, the Agency must make the determination regarding adequacy of the plan if IDPH fails to do so. It should be noted, however, that having an approved alternate management plan does not act as a shield against enforcement under other provisions of the Act.

#### Section 848.206 Exemptions for Tire Retreading Facilities

In its first notice publication, the Board proposed an exemption from certain tire management standards for tire retreading facilities. (See Opinion and Order of August 8, 1991, R90-9(B) pp. 1-3) The Agency had previously proposed exempting tire retreaders from certain Part 848 standards, including pile separation requirements, earthen berm requirements, distance of tire piles from buildings, stacking requirements and unit size. They would instead be allowed to develop an alternate management plan.

At hearings in Docket (A) of this proposal Lakin General raised the issue of whether retreaders should receive a credit in terms of financial assurance requirements for retreadable tires. (1R.170) The Board's first notice proposal proposed to exempt retreadable tires stored on site from removal cost calculation under Section 848.404, upon the belief that these tires have intrinsic value beyond their fuel potential and are not likely to

be abandoned. At hearing, the retreaders agreed to the scope of the proposed exemption but disagreed as to the mechanism for accomplishing it. The problem turned on the Board's use of the term "retreadable" for defining the tire stock which could be exempted from the cost calculations. The Agency believed the term was too vague for it to utilize in enforcement. (PC 24; 3R. 7) The Agency also believed that by not including all tires in the cost of the estimate, the estimate will not reflect the true cost of the tire removal. Regarding such "retreadable" tires, the Agency stated that the value of such tires is to the retreader itself and of no value to anyone else. The Agency believed, therefore, that all tires should be reflected in the removal cost estimate.

The Board disagreed with the Agency's assertion that a retreader's tire inventory has no value to anyone but the retreader itself. As testified to by representatives of Lakin General Corporation, a retreader segregates tires it finds unsuitable for retreading. Lakin, for instance, removes these tires from its site on a weekly basis. (3R.41) For the retreadable tire the retreader has paid a price. For example, Lakin pays between 50 cents and \$4.50 per tire casing. (2R.130) This price is a reflection of its market value, to that retreader or to another similarly situated. As long as a market exists for those tires, the tires have an intrinsic value in excess of that of a typical used or waste tire. As it is reasonable to assume that a retreadable tire market will exist in Illinois for the foreseeable future, it is also reasonable to exclude these tires from the removal cost estimate. To require the retreaders to insure against their removal when the intrinsic value of the tire does so would place an unnecessary burden on that industry. The exemption is viewed as a means of encouraging a beneficial use of tires.

The Board believed it prudent, however, to place limits on the number of tires falling under exemptions. The first notice proposal specified a storage unit size that would have allowed an exemption for up to one million tires. If a retreading facility which is exempted from financial assurance ceases operations due to business failure or otherwise, and has a large amount of tires on site, a blanket exemption from financial assurance requirements may make timely removal uncertain because of the scale of the operation. Therefore, the Board limited the exemption given.

The Board found that the limitation on the tire removal cost exemption should be based upon the tire inventory which has been shown to be necessary for economical operation of a tire retreading facility. The record indicated that at least a three month inventory must be maintained to balance the scale of economies at these facilities. (1R. 99) Lakin testified, for example, that it needs to maintain an inventory of 50-60 thousand

retreadable tires. The rule being adopted today limits the number of tires stored at an existing retreading site as exempt from certain management standards to 100,000 tires provided that an alternative management plan is developed.

Accordingly, the Board has fashioned the relief in terms of a retreader's three month tire production experienced in the past calendar year. In order to simplify the bookkeeping requirements, the adopted rule allows that a number of tires equal to one fourth of the prior year's tire production be exempt from financial assurance. New facilities will develop a number based on the expected capacity of equipment on hand. This number of tires may be excluded from the cost estimate. The Board has proceeded this way in order to avoid administrative problems associated with "rolling averages" or the unfairness of strictly fixed numbers. The date for determining that a facility is "new" has been changed to January 1, 1992. Facilities actually certified before that date will be considered "existing facilities".

Existing sites are exempted from certain management standards and the fourteen day processing rule. They must, therefore, develop alternate management plans for storage as well as fire and mosquito control. New sites, however, must meet most storage standards except the fourteen day processing rule and must develop an alternate plan to control mosquitoes.

Section 848.207                    Exemptions for Tire Stamping and Die Cutting Operations

At hearing and in PC 21 Lakin General Corporation requested exemptions for its tire stamping operation which are similar to those requested for retreaders. The stamping operation uses predominantly bias ply tires which are segregated from those unsuitable for the stamping operation. Unsuitable tires are transferred from the site and no more than 3,000 are accumulated at a time. Bias ply tires are purchased specifically for the stamping operation. (3R.29-47)

The Board believed that these tire stamping and die cutting operations are situated similarly to retreading facilities and will therefore grant an exemption from certain management and financial assurance requirements similar to those granted for retreaders. Lakin General Corporation originally proposed the exemption for operations capable of stamping 800 tires per day. The Board found it desirable to decrease this to 50 tires per day to accommodate smaller operations. Lakin's proposed storage limit of 20,000 whole tires (PC 21) is accepted as reasonable. The Board, therefore, added Section 848.207 to the proposed rules and has fashioned an exemption for retreaders in Section 848.206, tire stamping and die cutting facilities similar to that granted retreaders. Facilities stamping or cutting tires prior to

January 1, 1992 will be considered "existing facilities."

Section 848.208            Exemption for Sites with a Tire Removal Agreement

The Agency's initial proposal included an exemption from financial assurance for sites with a written tire removal agreements. In its post-hearing public comments (PC 24) the Agency has again requested the Board to consider adding the following language to the list of exemptions:

- a. Owners and operators of tire disposal sites where written approval of a tire removal agreement has been obtained from the Agency under Subpart E and tires have been or are being removed from the site in accordance with the schedule in the tire removal agreement.

(PC 24, p.4)

The Agency believed this language "establishes a strong incentive for owners and operators of tire disposal sites to maintain compliance with their removal agreements." (Id.)

The Board has no objection to exempting sites with tire removal agreements from financial assurance. Potential problems arise in that the proposed language would require the release from assurance as soon as removal began. If the person failed to abide by the agreement, would the Agency want assurance reinstated?

It is apparent that the Agency believed an exemption is warranted and will aid in cleaning up tire piles. The Board granted an exemption to persons with a tire removal agreement, but dropped the language relating to actual removal. The exemption as adopted by the Board will provide an incentive to sign the agreement. A person who signs a tire removal agreement and fails to honor it can be enforced against under the enforcement provisions of the Act.

Miscellaneous Issues

Several other issues also arose at hearing and in public comments. Mr. Lloyd Renfro, executive director of the Illinois State Tire Dealers and Retreaders Association, testified that the Board should do all it can to relieve the economic burdens on processors. He testified that new retreading sites should be treated just like old sites. The property size limitations in the present proposal, he believed, should be lifted. (3R.116-117)

Mr. Renfro also testified that used farm tires are a big

problem downstate. He asked for an exemption for the storage of used farm tires, as many farmers, in this economy, will purchase used farm tires for later use, and store them on site. (3R.119-21)

Mr. Renfro also believed relief should be given to small retreading operations which retread truck tires for specific tire companies. These operations may have 50-500 tires on site for their operations. (3R.125) The current proposal, he admitted, probably gives these retreaders the relief they need from the management standards. (3R.127)

Midwest Rubber Reclaiming (Midwest) requested exemption for rubber reclaimers similar to those requested by tire retreaders. (PC 20) Midwest collects used and waste tires and processes them into a product that competes with virgin rubber. Its proposal included an exemption for up to 25,000 tires. This matter was not specifically discussed at hearing.

The Board did adopt this language as part of the rule.- The matter has not been sufficiently explored. The Board noted that if Midwest's product is 2 inch minus or less, its production is exempt from financial assurance requirements. Midwest has provided no information as to why the tires it accumulates for destruction should be exempt other than it destroys waste tires. For example, Midwest have not demonstrated that their tires have value above other waste tires such as is the case with those that are retreadable.

Sites with less than 5,000 tires are exempt from financial assurance requirements under Section 848.400(c)(4). This number of tires will fill between four and eight semi-trailers depending upon how they are stacked. (Exh. 14, pp. 5-7) This exemption combined with the two-inch minus exemption, will make it possible for small operators to avoid obtaining financial assurance provided they process tires as they arrive. This will provide an incentive for quickly processing tires into chips or crumb rubber.

The exemptions for retreaders, stampers and die cutters, when combined with the exemption Section 848.400(c)(4), will also make it possible for these operations to avoid obtaining financial assurance, provided they keep a high turnover rate of their feed stock and do not accumulate large numbers of tires.

The Board reminds all participants that should the new Part 848 management standards affect businesses in a manner believed to be unjustifiable, that business or group may petition the Board for relief from those provisions. Types of relief available include site specific regulations (Section 27 of the Act), adjusted standards (Section 28.1 of the Act) or variances. (Title IX of the Act) Of the three relief mechanisms, two

provide permanent relief from the effect of the rule upon a specified showing.

Other Agency Concerns (848.303)

The Agency urged the Board to consider adding a new subsection to section 848.303, "Daily Tire Record" which would require a site operator to record the transporter registration number of the transporter delivering the used or waste tires to the site. (3R.16) However, this section was not open for amendment in this proceeding as it was not published at first notice in the Illinois Register. The Board invites the Agency to submit a proposed rule for first notice publication by the Board should this amendment still be desired.

Complete Text of Rules

The Board reminds all participants that the full text of the new Part 848 management standards, as they are now amended, does not appear in today's Order. Participants must read today's amendments together with the Board order adopting the rules in R90-9(A), dated April 25, 1991, in order to have a complete and current text of the new Part. Participants may contact the Secretary of State for a copy of the full Part, as amended, once these amendments have been accepted and published by that office. The Board expects that to happen prior to March 15, 1992.

ORDER

The following rules are hereby adopted. The Board directs the Clerk of the Board to submit these rules to the Secretary of State for final notice publication in the Illinois Register.

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE G: WASTE DISPOSAL  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER m: USED AND WASTE TIRES

PART 848  
 MANAGEMENT OF USED AND WASTE TIRES

SUBPART A: GENERAL

Section  
 848.101 Applicability  
 848.102 Severability  
 848.103 Other Regulations  
 848.104 Definitions  
 848.105 Incorporation by Reference

SUBPART B: MANAGEMENT STANDARDS

Section	
848.201	Applicability
848.202	Requirements
848.203	Contingency Plan
848.204	Storage of Used and Waste Tires Within Buildings
848.205	Pesticide Treatment
<u>848.206</u>	<u>Exemptions for Tire Retreading Facilities</u>
<u>848.207</u>	<u>Exemptions for Tire Stamping and Die Cutting Facilities</u>
<u>848.208</u>	<u>Exemptions for Sites With a Tire Removal Agreement</u>

#### SUBPART C: RECORDKEEPING AND REPORTING

Section	
848.301	Applicability
848.302	Records
848.303	Daily Tire Record
848.304	Annual Tire Summary
848.305	Retention of Records
848.306	Certification

#### SUBPART D: FINANCIAL ASSURANCE

Section	
848.400	Scope and Applicability
848.401	Upgrading Financial Assurance
848.402	Release of Financial Institution
848.403	Application of Proceeds and Appeal
848.404	Removal Cost Estimate
848.406	Mechanisms for Financial Assurance
848.407	Use of Multiple Financial Mechanisms
848.408	Use of a Financial Mechanism for Multiple Sites
848.410	Trust Fund
848.413	Letter of Credit
848.415	Self-Insurance for Non-commercial Sites

#### SUBPART E: TIRE REMOVAL AGREEMENTS

Section	
848.501	Applicability
848.502	Removal Performance Standard
848.503	Contents of Proposed Tire Removal Agreements
848.504	Time Allowed for Tire Removal
848.505	Removal Plan
848.506	Initiation of Tire Removal
848.507	Certification of Removal Completion
848.508	Agency Approval
848.509	Board Review

#### SUBPART F: TIRE TRANSPORTATION REQUIREMENTS

Section	
848.601	Tire Transportation Prohibitions

848.602 Tire Transportation Registrations  
 848.603 Agency Approval of Registrations  
 848.604 Registration No Defense  
 848.605 Duration and Renewal  
 848.606 Vehicle Placarding

848.Appendix A FINANCIAL ASSURANCE FORMS

Illustration A "Trust Agreement"  
 Illustration B "Certification of Acknowledgement"  
 Illustration E "Irrevocable Standby Letter of Credit"  
 Illustration C "Owner or Operator's Bond Without Surety"  
 Illustration D "Owner or Operator's Bond With Parent  
 Surety"  
 Illustration E "Letter from the Chief Financial Officer"

AUTHORITY: Implementing Section 55.2 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1055.2 and 1027).

SOURCE: Adopted in R90-9(A), at 15 Ill. Reg. 7959, effective May 10, 1991; amended in R90-9(B) at 16 Ill. Reg. , effective

SUBPART A: GENERAL

Section 848.101 Applicability

Section 55 of the Illinois Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par, 1055) sets forth prohibitions relative to the storage, processing, disposal and transportation of used and waste tires. This Part sets forth rules establishing further requirements relative to the storage, processing, disposal and transportation of used and waste tires. ~~This Part shall not apply to any site at which tires are retreaded if the owner or operator of such a site holds a valid registration as a tire retreader pursuant to 49 CFR 571.117 and 49 CFR 574 (incorporated by reference at Section 848.105) and complies with 35 Ill. Adm. Code 849.~~ This Part does not apply to:

- a) Altered tires which have been chopped, shredded or processed, such that the individual dimensions of height, length and width of the tire product are two inches or less (an industry standard known as "two inch minus");
- b) Converted, new or reprocessed tires; or
- c) Reused tires which have been altered to prevent the accumulation of water.

(Source: Amended at 16 Ill. Reg. , effective )

SUBPART B: MANAGEMENT STANDARDS

Section 848.202 Requirements

- a) Unless exempted by Section 848.201, owners and operators of tire storage sites and tire disposal sites shall meet the requirements of this Section. These requirements shall apply to all used or waste tires located at the site, including altered tires, converted tires and reprocessed tires.
- b) At sites at which more than 50 used or waste tires are located the owner or operator shall comply with the following requirements:
  - 1) Used or waste tires shall not be placed on or accumulated in any pile outside of any building unless the pile is separated from all other piles by no less than 25 feet and aisle space is maintained to allow the unobstructed movement of personnel and equipment.
  - 2) Used or waste tires shall not be accumulated in any area located outside of any building unless the accumulation is separated from all buildings, whether on or off the site, by no less than 25 feet.
  - 3) Used or waste tires shall not be placed on or accumulated in any pile unless the pile is separated from all potential ignition sources, including cutting and welding devices, and open fires, by not less than 250 feet or all such activities are carried out within a building.
  - 4) Used or waste tires shall be drained of water on the day of generation or receipt.
  - 5) Used or waste tires received at the site shall not be stored unless within 14 days after the receipt of any used tire the used tire is altered, reprocessed, converted, covered or otherwise prevented from accumulating water. All used and waste tires received at the site before June 1, 1989, shall be altered, reprocessed, converted, covered or otherwise prevented from accumulating water by January 1, 1992.
  - 6) USED OR WASTE TIRES SHALL NOT BE ABANDONED, DUMPED OR DISPOSED ON PRIVATE OR PUBLIC PROPERTY IN

ILLINOIS, EXCEPT IN A LANDFILL PERMITTED BY THE AGENCY PURSUANT TO 35 ILL. ADM. CODE PART-807 or 811. (Section 55(a)(5) of the Act)

- 7) Used or waste tires shall not be accepted from a vehicle in which more than 20 tires are loaded unless the vehicle displays a placard issued by the Agency under ~~Section 848~~ Subpart F.
  - 8) Tires shall not be accumulated in an area if the grade of the ground surface exceeds two percent slope unless the requirements of subsection (d)(3) ~~of this Section~~ are met.
- c) In addition to the requirements set forth in subsection (b), the owner or operator shall comply with the following requirements at sites at which more than 500 used or waste tires are located.
- 1) A contingency plan which meets the requirements of Section 848.203 shall be maintained.
  - 2) The recordkeeping and reporting requirements of Subpart C shall be met.
  - 3) Used or waste tires shall not be placed on or accumulated in any pile unless the pile is separated from grass, weeds, brush, over-hanging tree limbs and similar vegetative growth by no less than 50 feet.
  - 4) Used or waste tires shall not be placed on or accumulated in any tire storage unit unless the unit is no more than 20 feet high by 250 feet wide by 250 feet long. In determining the width or length of any tire storage unit, the aisle space between any piles within the unit shall be included.
  - 5) Used or waste tires shall not be placed or accumulated in any tire storage unit unless one of the following requirements is met:
    - A) The tire storage unit is separated from all buildings, whether located on or off the site, and all other tire storage units by an earthen berm that is no less than 1.5 times the maximum height of any tire pile within the storage unit; or
    - B) The tire storage unit is separated from all buildings, whether located on or off the

site, and all other tire storage units by a separation distance that is not less than the distance identified by the following:

Required Separation Distances  
From Tire Storage Units (in feet)

		Tire Storage Unit Height (in feet)			
		8	12	16	20
	25	56	67	77	85
Unit Face	50	75	93	107	118
Dimensions	100	100	128	146	164
(feet)	150	117	149	178	198
	200	130	167	198	226
	250	140	181	216	245

- d) In addition to the requirements set forth in subsections (b) and (c) ~~of this Section~~, the owner or operator shall comply with the following requirements at sites at which more than 10,000 used or waste tires are located.
- 1) The area of the site where used or waste tires are stored shall be completely surrounded by fencing in good repair which is not less than 6 feet in height.
  - 2) Entrance to the area where used or waste tires are located shall be controlled at all times by an attendant, locked entrance, television monitors, controlled roadway access or other equivalent mechanisms.
  - 3) The area of the site where used or waste tires are stored shall be completely surrounded by an earthen berm or other structure not less than 2 feet in height ~~except that the owner or operator shall provide a means for access through or over the berm or other structure~~, and capable of containing runoff resulting from tire fires, and accessible by fire fighting equipment; except that the owner or operator shall provide a means for access through or over the berm or other structure.

(Source: Amended at 16 Ill. Reg. , effective )

Section 848.205 Pesticide Treatment

Owners or operators of tire storage sites or tire disposal sites treating used or waste tires with pesticides pursuant to ~~Section 848.203~~ this Part or Title XIV of the Act shall meet the following requirements:

- a) Use a pesticide labelled for control of mosquito larvae unless an adult mosquito problem is identified.
- ab) Maintain a record of pesticide use at the site. Such a record shall include the following information for each application:
  - 1) Date of pesticide application;
  - 2) Number of used or waste tires treated;
  - 3) Amount of pesticide applied; and
  - 4) Type of pesticide used.
- bc) Notify the Agency of pesticide use within 10 days of each application. The notification shall include the information listed in subsection (a b).
- ed) Persons applying pesticides to used and waste tires must comply with the requirements of the Illinois Pesticide Act (Ill. Rev. Stat. 1989, ch. 5, par. 801 et seq.). Information is available from:

Illinois Department of Agriculture  
Bureau of Plant & Apiary Protection  
State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-9281

(Source: Amended at 16 Ill. Reg. , effective )

Section 848.206 Exemptions for Tire Retreading Facilities

- a) Existing sites. Sites which meet all of the conditions of subsection (a)(1) are exempt as set out in subsection (a)(2).

1) Conditions for exemption.

- A) Registration. The site was operated by a tire retreader who, as of January 1, 1992, held a valid registration with the U.S. Department of Transportation as a tire retreader under 49 CFR 571.117 and 574. (October 1, 1990). This incorporation includes no later amendments or editions.

- B) Number of Tires. The facility contains no more than 100,000 whole used or waste tires.
- C) Equipment. The retreader:
- i) Has equipment at the site which is capable of retreading at least 500 tires per day when operated in accordance with the equipment manufacturer's specifications; and
  - ii) Maintains documentation at the site which demonstrates that an average of 500 or more tires per day of operation were retreaded at the site during the previous calendar year.
- D) Segregation. The owner or operator of the site segregates tires intended to be retreaded from those tires determined to be unsuitable for retreading.
- 2) Scope of Exemption.
- A) The following Sections do not apply:
- i) Pile separation distances specified at Sections 848.202(b)(1) and (2);
  - ii) The storage limitations on whole tires specified at subsection 848.202(b)(5);
  - iii) Tire storage unit requirements of Sections 848.202(c)(4) and (5); and
  - iv) The earthen berm requirement of Section 848.202(d)(3).
- B) The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's tire production as shown by documentation maintained at the site.
- 3) Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:
- A) Within 90 days of the effective date of these regulations develop and implement a tire storage plan to minimize the threats of fire

and mosquito breeding. Such a plan shall include, but is not limited to, tire storage arrangements, aisle space, access to fire fighting personnel and equipment and mosquito inspection and control.

- B) Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (a)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days of receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:

Division of Environmental Health  
Office of Health Protection  
Illinois Department of Public Health  
525 W. Jefferson Street  
Springfield, Illinois 62761

- b) New sites. Sites which meet all of the conditions of subsection (b)(1) are exempt as set out in subsection (b)(2).

1) Conditions for exemption.

- A) Registration. The site is operated by a tire retreader who, since January 1, 1992, first obtained a valid registration with the U.S. Department of Transportation as a tire retreader under 49 CFR 571.117 and 574 (October 1, 1990). This incorporation includes no later amendments or editions.

B) Equipment. The retreader:

- i) Has equipment at the site which is capable of retreading at least 500 tires per day when operated in accordance with the equipment manufacturer's specifications; and
- ii) Maintains documentation at the site which demonstrates that an average of 500 or more tires per operating day were

retreaded at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use estimated production for the first two months, and average monthly production thereafter, until a calendar year of data is available.

C) Segregation. The owner or operator of the site segregates tires intended to be retreaded from those tires determined to be unsuitable for retreading.

2) Scope of Exemption.

A) The storage limitation for whole tires specified at Section 848.202(b)(5) does not apply.

B) The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's production as shown by documentation maintained at the site. The owner or operator may exclude one fourth of the estimated first 12 months production during the first year of operation.

3) Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:

A) Within 90 days of the effective date of these regulations develop and implement a tire storage plan to minimize the threat of mosquito breeding. Such a plan shall include, but is not limited to, mosquito inspection and control.

B) Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (b)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination

shall be sent to:

Division of Environmental Health  
Office of Health Protection  
Illinois Department of Public Health  
525 W. Jefferson Street  
Springfield, Illinois 62761

c) Small sites. Sites which meet the conditions of subsection (c)(1) are exempt as set out in subsection (c)(2).

1) Conditions for exemption.

A) Number of tires. The facility contains no more than 500 whole used or waste tires.

B) Registration. The site is operated by a tire retreader who holds a valid registration with the U.S. Department of Transportation as a tire retreader under 49 CFR 571.177 and 574 (October 1, 1990). This incorporation includes no later amendments or editions.

C) Equipment. The retreader:

i) Has equipment at the site which is capable of retreading at least 20 tires per day when operated in accordance with equipment manufacturer's specifications; and

ii) Maintains documentation at the site which demonstrates that an average of 20 tires per day were retreaded at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use estimated production for the first two months, and average monthly production thereafter, until a calendar year of data is available.

2) Scope of exemption. The following do not apply:

A) The pile separation distances specified at Section 848.202(b)(1) and (2); and

B) The tire storage limitation of Section 848.202(b)(5).

3) Alternate Management Standards. As a part of the

contingency plan requirements of Section 848.203 the owner or operator shall:

- A) Within 90 days after the effective date of these regulations develop and implement a tire storage plan to minimize the threats of fire and mosquito breeding. Such a plan shall include, but is not limited to, tire storage arrangements, aisle space, access to fire fighting personnel and equipment and mosquito inspection and control.
- B) Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (c)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days of receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:

Division of Environmental Health  
Office of Health Protection  
Illinois Department of Public Health  
525 W. Jefferson Street  
Springfield, Illinois 62761

(Source: Added at 16 Ill. Reg. , effective )

Section 848.207 Exemptions for Tire Stamping and Die Cutting Facilities

a) Existing Sites. Sites which meet all of the conditions of subsection (a)(1) are exempt as set out in subsection (a)(2).

1) Conditions for exemption.

A) Operation. The site was in operation as a tire stamping and die cutting facility on or before January 1, 1992.

B) Number of tires. The facility contains no more than 20,000 whole used or waste tires.

C) Equipment. The stamping and die cutting

facility has equipment at the site which is capable of stamping and die cutting at least 50 tires per day when operated in accordance with the equipment manufacturer's specifications; and

- D) Documentation. The stamping and die cutting facility maintains documentation at the site which demonstrates that an average of 50 or more tires per operating day were processed at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use estimated production for the first two months, and average monthly production thereafter, until a calendar year of data is available.
- E) Segregation. The owner or operator of the site segregates tires intended to be stamped or die cut from those tires determined to be unsuitable for stamping or die cutting.

2) Scope of exemption.

A) The following Sections do not apply:

- i) Pile separation distances specified at Sections 848.202(b)(1) and (2);
- ii) The storage limitations on whole tires specified at subsection 848.202(b)(5);
- iii) Tire storage unit requirements of Sections 848.202(c)(4) and (5); and
- iv) The earthen berm requirement of Section 848.202(d)(3).

B) The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's tire production as shown by documentation maintained at the site.

3) Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:

A) Within 90 days of the effective date of these regulations develop and implement a tire

storage plan to minimize the threats of fire and mosquito breeding. Such a plan shall include, but is not be limited to, tire storage arrangements, aisle space, access to fire fighting personnel and equipment and mosquito inspection and control.

- B) Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (a)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days of receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:

Division of Environmental Health  
Office of Health Protection  
Illinois Department of Public Health  
525 W. Jefferson Street  
Springfield, Illinois 62761

- b) New sites. Sites which meet all of the conditions of subsection (b)(1) are exempt as set out in subsection (b)(2).

1) Conditions for exemption.

- A) Operation. The site was not in operation as a tire stamping and die cutting facility on or before January 1, 1992.
- B) Equipment. The stamping and die cutting facility has equipment at the site which is capable of stamping and die cutting at least 50 tires per day when operated in accordance with the equipment manufacturer's specifications; and
- C) Documentation. The stamping and die cutting facility maintains documentation at the site which demonstrates that an average of 50 or more tires per operating day were processed at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use

estimated production for the first two months, and average monthly production thereafter, until a calendar year of data is available.

D) Segregation. The owner or operator of the site segregates tires intended to be stamped or die cut from those tires determined to be unsuitable for stamping or die cutting.

2) Scope of exemption.

A) The storage limitation for whole tires specified at Section 848.202(b)(5) does not apply.

B) The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's production as shown by documentation maintained at the site. The owner or operator may use the estimated first 12 months production during the first year of operation.

3) Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:

A) Within 90 days of the effective date of these regulations develop and implement a tire storage plan to minimize the threat of mosquito breeding. Such a plan shall include, but is not limited to, mosquito inspection and control.

B) Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (b)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days of receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:

Division of Environmental Health

Office of Health Protection  
Illinois Department of Public Health  
525 W. Jefferson Street  
Springfield, Illinois 62761

(Source: Added at 16 Ill. Reg. , effective )

Section 848.208 Exemptions for Sites with a Tire Removal Agreement

Owners and operators of tire disposal sites are exempt from the financial assurance requirements of Subpart D as to that site where written approval of a tire removal agreement has been obtained from the Agency under Subpart E.

(Source: Added at 16 Ill. Reg. , effective )

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE G: WASTE DISPOSAL  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER m: MANAGEMENT OF SCRAP TIRES

PART 849  
 MANAGEMENT OF SCRAP TIRES

~~Section~~

~~849.101 Definitions~~

~~849.102 Severability~~

~~849.103 Reporting and Record Keeping~~

~~849.104 Management Standards for Accumulations of Scrap Tires~~

~~849.105 Alternate Management Programs For Accumulations of Scrap Tires~~

~~849.106 Pesticide Application~~

~~AUTHORITY: Implementing Section 22 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1022 and 1027)~~

~~SOURCE: Emergency rules adopted in R88-12 at 12 Ill. Reg. 8485, effective May 1, 1988, for a maximum of 150 days; emergency expired September 28, 1988; adopted in R88-24 at 13 Ill. Reg. 7949, effective June 1, 1989.~~

~~NOTE: Capitalization denotes statutory language.~~

~~Section 849.101 Definitions~~

~~Except as stated herein and unless a different meaning of a word or term is clear from its context, the definitions of words or terms as are used in this Part shall be the same as those used in the Environmental Protection Act (Act) (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1001 et seq.).~~

~~"Converted Tire" means a tire which has been manufactured into a usable product other than a tire, or otherwise altered so that it is no longer capable of holding accumulations of water. Converted tires include, but are not limited to, those which have been: shredded, chopped, drilled with holes sufficient to assure drainage; slit longitudinally and stacked so as not to collect water; or wholly or partially filled with soil, cement or other material to prevent accumulation of water. "Conversion" or "converting" means an action which produces a converted tire.~~

~~"Generation" means the creation of a scrap tire by removal of a tire from a wheel (rim).~~

~~"New Tire" means a tire which has never been placed on a motor vehicle wheel (rim) for use.~~

~~"PERSON" IS ANY INDIVIDUAL, PARTNERSHIP, CO-PARTNERSHIP, FIRM, COMPANY, CORPORATION, ASSOCIATION, JOINT STOCK COMPANY, TRUST, ESTATE, STATE AGENCY, OR ANY OTHER LEGAL ENTITY, OR THEIR LEGAL REPRESENTATIVE, AGENT OR ASSIGNS. (Section 3.26 of the Act.)~~

~~"Reprocessed Tire" means a tire which has been recapped, retreaded or regrooved and which has not been placed on a motor vehicle wheel (rim) since being reprocessed.~~

~~"Scrap Tire" means a tire which has been removed from use on a motor vehicle and separated from the wheel (rim). Any tire which is not a new tire, converted tire or reprocessed tire is considered to be a scrap tire until it is placed on a motor vehicle wheel (rim). A reprocessed or new tire which is commingled with or placed within an accumulation of scrap tires is considered to be a scrap tire. For the purposes of this Part only, a scrap tire is considered to be a waste.~~

~~"Tire" means a hollow ring, made of rubber or similar material, which is designed for placement on the wheel (rim) of a motor vehicle.~~

#### ~~Section 849.102 — Severability~~

~~If any provision of this Part is adjudged invalid, or if the application thereof to any person or in any circumstance is adjudged invalid, such invalidity shall not affect the validity of this Part as a whole or of any Subpart, Section, subsection, sentence or clause thereof not adjudged invalid.~~

#### ~~Section 849.103 — Reporting and Record Keeping~~

- ~~a) Any person subject to the requirements of Sections 849.104 or 849.105 shall by July 1, 1989, report to the Illinois Environmental Protection Agency (Agency) the information required in subsection (c).~~
- ~~b) Any person who after July 1, 1989, accumulates more than 50 scrap tires such that he is subject to the requirements of Sections 849.104 or 849.105 shall report to the Agency within 45 days of accumulation of such scrap tires the information required in subsection (c).~~
- ~~e) Information required:
  - ~~1) The legal name and post office address of the person making the report;~~
  - ~~2) The legal name and post office address of the owner of the site or facility and of the operator of the site or facility if the operator is a person other than the owner;~~
  - ~~3) The location of the accumulation including street address, municipality or township, county, and if appropriate, descriptions of rural locations;~~
  - ~~4) The approximate number of scrap tires at the location;~~
  - ~~5) Whether the person ships to or receives scrap tires from other locations and the estimated number of scrap tires shipped or received annually;~~
  - ~~6) What use or disposition a person makes or plans to make of the scrap tires; and~~
  - ~~7) The manner in which the accumulation is stored prior to such use or disposition.~~
  - ~~8) The location at which the written compliance plan and documentation required by Section 849.103(e) are maintained and available for inspection by the Agency.~~~~
- ~~d) Reports required by this Section shall be sent to:~~

~~Illinois Environmental Protection Agency  
Division of Land Pollution Control  
2200 Churchill Road  
P.O. Box 19276  
Springfield, IL 62794-9276~~

- e) ~~Any person subject to the requirements of Sections 849.104 or 849.105 shall develop and maintain a written compliance plan to achieve compliance with those Sections for managing scrap tires to control larval and pupal mosquitoes. In addition, the person shall maintain records and manage scrap tires in such a manner as to be able to demonstrate that the compliance plan is being implemented. This activity may include but shall not be limited to the following:~~
- 1) ~~Segregating treated from untreated scrap tires;~~
  - 2) ~~Maintaining invoices for pesticides purchased or the services of a professional pesticide service;~~
  - 3) ~~Maintaining records on the dates of periodic treatment;~~
  - 4) ~~Documentation showing approval of any Alternate Management Program under Section 849.105;~~
  - 5) ~~Documentation such as hauling contracts or invoices which indicate the dates on which or frequency with which scrap tires are removed from the location; or~~
  - 6) ~~Such other information as may be useful or necessary to document that the plan is being implemented as planned.~~
- f) ~~The compliance plan and documentation required by subsection (e) shall be available for inspection by the Agency at reasonable times during normal business hours.~~

~~Section 849.104 Management Standards for Accumulations of Scrap Tires~~

- a) ~~This Section does not apply to scrap tires accumulated solely as a result of personal (i.e., noncommercial), agricultural, horticultural, or livestock raising activities. In addition, this Section does not apply to units of local and State government.~~
- b) ~~Except as otherwise provided in Section 849.105, between April 1 and November 1, no person shall accumulate or maintain an accumulation of more than 50 scrap tires from that person's commercial or business activities or maintain such an accumulation on any commercial or business property unless the tires are either:~~
- 1) ~~Drained of water on the day of generation or receipt and kept dry by being:~~

- ~~A) Placed within a closed container or structure;  
or~~
- ~~B) Covered by material impermeable to water; or~~
- ~~C) Drained or otherwise managed so as to remove  
water within 24 hours after each precipitation  
event; or~~
- ~~2) Drained of water on the day of generation or  
receipt and processed into converted or reprocessed  
tires within 14 days; or~~
- ~~3) Drained of water on the day of generation or  
receipt and treated within 14 days, with a  
pesticide appropriate to prevent the development of  
mosquito larvae and pupae, and treated again as  
often as necessary to prevent such development,  
taking into account the persistence (effective  
life) of the pesticide utilized; or~~
- ~~4) Treated on the day of generation or receipt with a  
pesticide appropriate to prevent the development of  
mosquito larvae and pupae and treated again as  
often as necessary to prevent such development,  
taking into account the persistence (effective  
life) of the pesticide utilized.~~

~~Section 849.105 — Alternate Management Programs For  
Accumulations of Scrap Tires~~

- ~~a) A person with an accumulation of scrap tires may employ  
mosquito control or management programs different than  
those specified in Section 849.104 if, and only if, that  
person files a complete plan for an alternative program  
with the Agency which details the control or management  
measures which will be taken. An alternative program is  
complete only if it is accompanied by a statement from  
the Illinois Department of Public Health that such  
program is expected to achieve results for control of  
larval and pupal mosquitoes substantially equivalent to  
those which would be achieved by full compliance with  
the requirements of Section 849.104. A person may file  
a plan on behalf of one or more persons for the  
management of a number of different accumulations. Each  
person whose program is included in the plan need not  
file a separate plan, but must be identified in the  
submitted plan.~~
- ~~b) Requests for statements of substantial equivalency shall  
be submitted to the Illinois Department of Public Health  
and shall be accompanied by information sufficient to~~

~~allow the Department to assess the effectiveness of the alternative program. Such requests shall be sent to:~~

~~Division of Environmental Health  
Office of Health Protection  
Illinois Department of Public Health  
525 W. Jefferson Street  
Springfield, IL 62761~~

~~Section 849.106 Pesticide Application~~

~~Persons applying pesticides to scrap tires must comply with the requirements of the Illinois Pesticide Act (Ill. Rev. Stat. 1987, ch. 5, par. 801 et seq.). Information is available from:~~

~~Illinois Department of Agriculture  
Bureau of Plant & Apiary Protection  
State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-9281~~

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 6<sup>th</sup> day of February 1992 by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board