

**PART 169, SCRAP TIRES, OF THE NATURAL RESOURCES AND ENVIRONMENTAL
PROTECTION ACT, 1994 PA 451, AS AMENDED (NREPA)
INTERPRETATION DOCUMENT
QUESTIONS, ANSWERS, AND CORRECTIONS**

TABLE OF CONTENTS

Part I: General Information

1. Estimate # of scrap tires	2. Salvage yards
3. Hauler registration-additional vehicles	4. Scrap tire hauler-who
5. Municipalities-register as haulers	6. Hauler manifest requirements
7. End user-processor	8. Mosquito samples
9. Mosquito samples-how often	10. Collection site-new location
11. Collection site-processor certification	12. Collection site-outdoor commodity area
13. Retreaders vs. processors	14. Crumb rubber disposal
15. Bead wire	16. Tread trimmings
17. Farm feed storage areas	18. Farm feed storage areas (<3000)
19. Farm feed storage (sidewall slabs/rings)	20. Farm feed storage (<3000 management requirements)
21. Farm feed storage (>3000)	22. Retreaders - Collection Site vs End User
23. Intermodal Storage Containers	

Part II: Statutory

1. Section 16901(d)(iii) "Automotive Recycler/Collection Site"	1.1 Auto recyclers/ collection site
1.2 Solid waste transfer station-collection site	1.3 Area wide tire cleanup site
1.4 Landfill-end user	1.5 Retail store/facility scrap tire storage
1.6 Clean up of site < 500 tires	1.7 Collection site-ownership-map requirements
2. Section 16901(t) "Scrap tire"	2.1 Scrap tire definition
3. Section 16901(u) "Scrap tire hauler"	3.1 Scrap tire haulers
3.2 Car/auto crushers-register	3.3 Tire chips
3.4 Scrap Tire Processor	3.5 Who does not have to manifest
3.6 <500 tires-waste pile vs. end user	3.7 Non profit member
3.8 SEP per consent order	3.9 Processed tire material
3.10 Scrap tire ID numbers	3.11 Farmers
3.12 Hauler-own tires-manifests	3.13 Scrap tire transportation record

3.14	Manifest-generator/collection site	3.15	Mobile scrap tire shredder
3.16	Solid waste hauler	3.17	Manifest-consolidated load
3.18	Re-treading operation-satellite locations	3.19	Scrap tire hauler exemptions
4.	Section 16901(x) "Tire"	4.1	HiLo tires
5.	Section 16901(aa) "Tire storage area"	5.1	Tire storage areas
6.	Section 16903, Accumulation of scrap tires outdoors by site owner/operator	6.1	Bonding requirements collection site
6.2	Trailers-bonding	6.3	Collection site cash bond
6.4	Collection site-more storage area-bond requirements	6.5	Commodity storage-size of parcels
6.6	Commodity storage area	6.7	Trailers, non-roadworthy
6.8	Commodity storage area form	6.9	Un-bonded commodity storage area
6.10	Bonding-metal storage container	6.11	Collection site-move to new site-bonding
6.12	Registered site-additional property	6.13	Chip storage area-bonding
6.14	Portable shredder-bonding	7.	Section 16903a, Statewide fire plan
7.1	Fire department reimbursement	7.2	Cleanup grants-plans
8.	Section 16903b Bond exemptions	8.1	Exemption from bonding
9.0	Mosquito breeding	10.	Section 16904 and Section 16905 Site/Hauler Registration
10.1	Site/hauler registration	10.2	Administrative Procedures Act
10.3	Inspection authority-collection sites	11.	Section 16904a, End-user
11.1	Inspection of receipts-log books	11.2	Exempt end-users
11.3	New end-users	11.4	End-user certification
11.5	End-user certification time frame	12.	Section 16909, Violations/penalties
12.1	Violations	13.0	Recovery actions

Attachments

Attachment 1 – End User, Processor and Bond Requirements Flow Charts	Attachment 2 – Lesher Court Decision
Attachment 3 – Part 169 Letter from Joan Peck to Bill Van Dyke	Attachment 4 – Statewide Plan for Response to Fires at Scrap Tire Collection Sites

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PART I - GENERAL QUESTIONS

[Back to top of document](#)

1. Q: *How can I reasonably determine the numbers of scrap tires in a tire accumulation?*

A: A vast number of variables affect the quantification of tires stored in similar scrap tire collections. Passenger versus truck tire size, age of the pile, loose, laced or baled tires, underlying terrain, and irregular foot print of the pile are a few of these variables. An acceptable national standard for estimating scrap tire numbers is to allow for ten scrap tires for each cubic yard of accumulation. This number can be reduced if the pile is new or the tires are loosely piled, or the number can be increased if the pile is older or the tires are laced, baled, shredded or otherwise volume reduced.

The most difficult task might be to gain an accurate estimate of the tire pile volume. Tire piles seldom occur in perfect rectangular forms that are easily measured. Most often tire piles are uneven heights, varying widths, and meandering lengths. This often calls for an estimation of averages. The accuracy of the tire estimation is predicated on the accuracy of the tire pile dimension measurements.

The formula: Length (yds) X Width (yds) X Height (yds) = ___ Cubic Yards X 10 (+ or – for variables) gives a reasonable estimate of tire quantities. The most critical number in tire quantity estimations are statutory thresholds of 500, 1,500, 2,500 and 100,000; 150 cubic yards of scrap tire processed material to be used as an aggregate replacement in septic drainfields; or when estimating tire pile numbers for the cleanup grant program.

[Back to top of document](#)

2. Q: *Where can we find salvage yard license information?*

A: The site for the Department of State salvage yard license information is the following: <http://www.michigan.gov/sos>. For phone numbers and section titles of Department of State staff, please check the Web site.

[Back to top of document](#)

3. Q: *What do we do if a registered scrap tire hauler submits a supplemental list of vehicles?*

A: Attach the supplemental list of vehicles to the current Registration Application rather than issue a new registration.

[Back to top of document](#)

4. Q: *Who has to register as a scrap tire hauler?*

A: A person who transports more than seven tires at once in a vehicle on a public road or street that are not his or her own tires.

Persons transporting their own tires to a location authorized in Section 16902(1) are not required to register as a hauler. Members of nonprofit organizations participating in community service projects and transporting scrap tires to a location authorized in Section 16902(1) are not required to register as haulers. The owner of a farm, who is transporting only scrap tires that originated from his or her own farm operation to a location authorized in Section 16902(1) or that are intended for use in a feed storage location, is not required to register as a hauler.

[Back to top of document](#)

5. *Q: Do municipalities that haul more than 7 tires at once now have to register as a scrap tire hauler?*

A: Section 16901(u) states that a scrap tire hauler does not include a person who is transporting his or her own tires to a location authorized in Section 16902(1). The Department of Natural Resources and Environment (DEQ) would consider a municipality or other governmental entity (i.e., county, state department) as eligible for the “ownership” exemption if the scrap tires are being removed from publicly owned property or are scrap tires abandoned on road right-of-ways within the governmental unit’s jurisdiction. If the municipality does not want to avail themselves of this exemption because it implies an “ownership” interest in the scrap tires, then they should register as a scrap tire hauler if they intend to haul more that 7 tires at once in a vehicle on a public road or street.

[Back to top of document](#)

6. *Q: A scrap tire hauler is required to maintain a record (manifest) of each load or consolidated load of scrap tires he or she transports on forms approved by the DEQ that contain all of the information required under Part 169 and is then required to leave a copy of that record with the person who contracted for removal of the tires at the time of the removal. What is a consolidated load? How would the manifest requirement work for a consolidated load?*

A: A consolidated load occurs when a single hauler is picking up small quantities of scrap tires from multiple locations or generators who have contracted with the hauler. These pickups must occur on the same day and be taken to the same final destination. The scrap tire hauler would use the DEQ approved Consolidated Load Scrap Tire Transportation Record EQP 5128a (manifest) in conjunction with the DEQ approved Scrap Tire Transportation Record EQP 5128 in the following manner: “See Consolidated Load information” and the number of pages attached would be listed in the generator portion of the manifest in Part 1 of the Scrap Tire Transportation Record. The consolidated load box would also be checked. Part 2 (hauler information) and Part 3 (final destination information) are to be completely filled out, as usual. The individual names and/or addresses of the locations where the tires are picked up by the scrap tire hauler, and numbers of tires would be tracked on the Consolidated Load Scrap Tire Transportation Record. A copy of the Scrap Tire Transportation Record and the Consolidated Load Scrap Tire Transportation Record would need to be made on a copy machine (or a duplicate copy filled out by hand) and left at each location where the hauler picks up scrap tires that become part of the consolidated load. The hauler must total all of the attached pages and include that total on Page 1 of the Tire Transportation Record in the generator section prior to delivery of the tires to the final destination. Within 30 days of receiving the consolidated load manifest, the final destination should mail a completed copy of the consolidated load manifest to each generator.

[Back to top of document](#)

7. *Q: How do we determine an end-user and a processor?*

A: See attached flow chart dated December 29, 2006 ([Attachment 1](#)).

[Back to top of document](#)

8. *Q: How long should DEQ staff keep mosquito samples taken at scrap tire collection sites?*

A: DEQ staff only needs to keep a sample if it is to be used in an enforcement case/action. The jars could be reused provided they were thoroughly cleaned.

[Back to top of document](#)

9. *Q: How often should DEQ staff obtain mosquito samples from a scrap tire collection site?*

A: DEQ staff should be taking mosquito samples from scrap tire collection sites annually. If a site is treated for mosquitoes, follow-up sampling should be done to determine the effectiveness of treatment.

[Back to top of document](#)

10. *Q: Does a collection site obtain a new registration number if the site moves to a new location?*

A: Yes, the collection site registration number remains with the address/property. If a site moves to a new location, a new collection site registration number must be issued. Hauler registrations, however, can move with the hauler to a new location.

[Back to top of document](#)

11. *Q: For collection sites who are processors, how should they certify that they are removing 75% every year?*

A: This applies to those wanting to meet the commodity exemption under Section 16903(5), the end-user certification under Section 16904a(1), and the processor exemption certification under Section 16903b(1). They need to submit the certification form approved by the DEQ (see Sections 16903(5)(b), 16904a, and 16903(1)(d) as applicable), “the owner annually certifies compliance with the requirements of this subsection on a form approved by the department.” The intent of these exemptions is to NOT GROW the pile. They need to show that 75% of the total amount of tires, by weight or volume, that has been brought in during the previous year has been recycled and removed from the site. This means that the volume/weight of tires that the site started the year with plus what was brought in during the year is divided into the volume/weight of tires that have been recycled and removed from the site to show the percentage. This should be easy for the person certifying this fact to do, as they should be keeping inventory records.

[Back to top of document](#)

12. *Q: An existing registered collection site using two trailers for storage (no bond) decides to add an additional < 1 acre outdoor commodity storage area for drain field chips. What should I do?*

A: Have the applicant resubmit their entire collection site registration as an “amended” application, showing the commodity storage area, include an explanatory cover letter and the commodity storage form EQP 5127. No bonding fee would be required and, since the statute states the \$200.00 registration fee shall accompany each annual application for registration – it is envisioned as being an annual fee to do business, rather than a fee to process the registration. So, they would not have to pay another \$200.00.

[Back to top of document](#)

13. *Q: Are scrap tire retreaders also classified as processors?*

A: Per Section 16901(s), a “retreader” means a person who retreads, or recases, or recaps tire casings for reuse. However, if they exceed 1,500 tires on site (retailer exemption), they would be required to register as a scrap tire collection site, have a bond, as applicable, and

maintain compliance with the site requirements for one year in order to be exempt from the bond requirements.

[Back to top of document](#)

14. Q: *If crumb rubber is used to construct an athletic field and the property is subsequently sold, would the material (crumb rubber) have to be removed and disposed of if it is no longer used as an athletic field?*

A: If the athletic field is constructed of shredded tires not more than 3/8 inch by 3/8 inch in size or crumb rubber less than 1/8 inch in size, free of steel and fiber, the material would be considered a commodity, inert, and would not have to be ripped up and disposed of pursuant to the provisions of Section 11507(3) of Part 115, Solid Waste Management, of the NREPA, 1994 PA 451, as amended, (Part 115 can be accessed at <http://www.legislature.mi.gov/documents/mcl/pdf/mcl-451-1994-ii-3-115.pdf>) and the Designation of Inertness #97-I-004 for Tire Material, dated March 4, 2004, Section 1(b)(ii) and Section 1(d) (the Designation of Inertness #97-I-004 can be accessed at http://www.michigan.gov/documents/deq/deq-whmd-stp-Designation-TireInert_247522_7.pdf).

[Back to top of document](#)

15. Q: *When is the bead wire of scrap tires recyclable as metal?*

A: Bead wire is a recyclable metal once it is removed from the tire and meets the definition of scrap metal. Once the wire bead is removed from the tire it is exempt from Part 169, otherwise it is considered a solid waste under Part 115.

[Back to top of document](#)

16. Q: *Are tread trimmings and tire buffings from the retreading of tire casings regulated under Part 169?*

A: No. Tread trimmings and tire buffings are not scrap tires. The trimmings have not been on a tire, never have been a tire, and are therefore, not a scrap tire and not regulated under Part 169. A similar argument can be made for the buffings as well. The tread trimmings and tire buffings are a waste from a manufacturing process and are regulated under Part 115. Site and/or source separated exemptions may apply on a case-by-case basis.

[Back to top of document](#)

17. Q: *Part 169 exempts a feed storage location from the definition of a collection site. What does this mean?*

A: A location on 1 or more parcels of adjacent property that contain a farm operation where not more than 3,000 scrap tires are used to secure stored feed is not required to register as a scrap tire collection site.

[Back to top of document](#)

18. Q: *A feed storage location is allowed to use up to 3,000 scrap tires without registering as a scrap tire collection site. What is included in the 3,000 scrap tires? Is this all-whole tires? Does it include sidewall slabs or rings used as weights to secure the stored feed?*

A: While the definition of “scrap tire” under Part 169 includes any tire that is no longer being used for its original intended purpose, including portions of a tire, the limit on the number of scrap tires at a feed storage location is intended to cover whole tires only. Sidewall rings or

slabs cut from tires for use as weights are commodities under Part 169 and are exempt from regulation under the statute when properly used at a feed storage location. A farm can have as many sidewall rings or slabs as necessary to secure stored feed.

[Back to top of document](#)

19. *Q: Are there any management requirements for sidewall slabs or rings used as weights by a farm to secure stored feed?*

A: While there are no management requirements contained in the statute for sidewall rings or slabs, the DEQ recommends that sidewall slabs or rings be managed and stored to reduce the risks of fires. Suggested management includes storing the sidewall slabs or rings in piles that are no greater than 15 feet in height with horizontal dimensions no greater than 200 by 40 feet, with a minimum of 30 feet between piles. To allow access to the sidewall slabs or rings should a fire occur, it is suggested they be stored in piles no closer than 20 feet from property lines and no closer than 60 feet from any building. The stored sidewall slabs or rings should be otherwise accessible to firefighting equipment and should be stored so that they are isolated from hazardous products such as lead acid batteries, fuel tanks, solvent barrels, and pesticide containers. Persons working at the farm should be trained what to do in the case of an emergency at the site and know who to contact should an emergency occur.

[Back to top of document](#)

20. *Q: Are there any management requirements for less than 3,000 whole scrap tires used by a farm to secure stored feed?*

A: There are no management requirements in the statute for less than 3,000 whole scrap tires being used by a farm to secure stored feed. However, the DEQ recommends that these whole scrap tires be managed and stored to reduce the risks of mosquitoes and fires. Suggested management includes storing the scrap tires in piles that are no greater than 15 feet in height with horizontal dimensions no greater than 200 by 40 feet, with a minimum of 30 feet between piles. To allow access to the whole tires, piles should be located no closer than 20 feet from property lines and no closer than 60 feet from any building. The tires should be otherwise accessible to firefighting equipment and should be stored so that they are isolated from hazardous products such as lead acid batteries, fuel tanks, solvent barrels, and pesticide containers. It is recommended that the owners of these locations notify the local fire department that serves the jurisdiction where the site is located that they have a number of scrap tires on site in case of a fire at the site. Persons working at the farm should be trained what to do in the case of an emergency at the site and know who to contact should an emergency occur. The whole tires should also be maintained in a manner that limits the potential of mosquito breeding by providing for proper drainage of water or treating the tires to eliminate the potential for mosquito breeding. Proper drainage can be achieved by drilling a minimum of four holes at least one-inch in diameter in the tires. The holes should be located where the tread meets the sidewall with two holes near each sidewall, so that no matter how the tire lies, one set of holes should be on the side that is down.

[Back to top of document](#)

21. *Q: What if a farm wants to use more than 3,000 whole scrap tires to secure stored feed?*

A: The farm would need to submit a written request for the use of more than 3,000 whole scrap tires to the DEQ's, Resource Management Division Chief. This written request would

need to explain the reasons why the farm needs to use a greater number of whole scrap tires. If the request were approved, the DEQ would issue an authorization under the Designation of Inertness for Tire Material for the use. The authorization would include the maximum number of tires that could be used for this purpose, that appropriate measures be taken to prevent runoff and sedimentation to surface waters, requirements for the proper use and storage of the whole scrap tires while in use to secure stored feed and after the tires are pulled off the feed piles. This includes following the statutory requirements for the storage of whole scrap tires in order to reduce the risks of mosquitoes and fires. Whole scrap tires must be stored in piles that are no greater than 15 feet in height with horizontal dimensions no greater than 200 by 40 feet, with a minimum of 30 feet between piles. Tire piles should be no closer than 20 feet from property lines and no closer than 60 feet from any building. The tires must be accessible to firefighting equipment and must be stored so that they are isolated from hazardous products such as lead acid batteries, fuel tanks, solvent barrels, and pesticide containers. The farm must notify, in writing, the local fire department that serves the jurisdiction in the DEQ approval to use scrap tires for this purpose. This written notification must be provided immediately upon receipt of this approval to use more than 3,000 scrap tires and a copy must be provided to the DEQ. Persons working at the farm should be trained what to do in the case of an emergency at the site and know who to contact should an emergency occur. The tires must be maintained in a manner that limits the potential for mosquito breeding by providing for proper drainage of water or treating the tires to eliminate the potential for mosquito breeding. Proper drainage can be achieved by drilling a minimum of four holes at least one-inch in diameter in the tires. The holes should be located where the tread meets the sidewall with two holes near each sidewall, so that no matter how the tire lies, one set of holes should be on the side that is down.

[Back to top of document](#)

22. Q. *Does a retreader with 1,500 or more scrap tires have to register as a scrap tire collection site?*

A. In Section 16901(1)(i)(iv) an end user is defined as a person who is authorized by this part to accumulate scrap tires, who acquires scrap tires, and who converts scrap tires into a product that is sold in the market or reused in a manner authorized by this part. Therefore, if the retreader annually certifies that 75% of the scrap tires, by weight or volume, that are stored on site each calendar year are recycled or used for resource recovery during that year, and complies with the record keeping requirements of Section 16906, the retreader will not be required to register as a scrap tire collection site. If the retreader does not certify as an end-user, then they will be required to register as a scrap tire collection site and must meet all applicable storage and bonding requirements. Note: This applies only to the site that is actually retreading the scrap tires, satellite locations of the retreader where no retreading activity is occurring will be required to register as a scrap tire collection site.

[Back to top of document](#)

23. Q. *Do intermodal storage containers at a collection site require bonding?*

A. If the intermodal storage container is being used to transport scrap tires it does not require bonding, similar to tires stored in trailers (See 6.2). However, if the container remains stationary and is not being used to transport scrap tires the container must be bonded (See 6.10).

PART II - STATUTORY QUESTIONS

[Back to top of document](#)

1. SECTION 16901, Definitions:

1. Section 16901(d)(iii) “Automotive Recycler/Collection Site”

[Back to top of document](#)

1.1 Q: *Do salvage yards have to be licensed “automotive recyclers” in order to be exempt from Part 169 regulations for scrap tire accumulations up to 2,500? Do metal salvagers and/or automotive recyclers come under the exemption from collection site status if they store 2,500 or fewer tires on site?*

A: No. Section 16901(d)(iii) only requires that the operations must meet the **definition** of an “automotive recycler” and not the license requirements of the Michigan Vehicle Code, 1949 PA 300, as amended (Act 300).

Act 300 defines an “automotive recycler” as “a person who engages in business primarily for the purpose of selling at retail salvage vehicle parts and secondarily for the purpose of selling at retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal.” The Secretary of State Web site further indicates that a licensed automotive recycler dealer buys or otherwise acquires late model major component **parts for resale**, either at wholesale or at retail. The dealer may also acquire whole vehicles to dismantle for the **resale of parts**, selling the remainder as scrap.

Therefore, if the **primary** operation is selling salvaged vehicle parts at retail then they are considered an “automotive recycler” for the purpose of this section. They may also sell salvaged motor vehicles and/or scrap metal from vehicles; however, they **must** sell salvaged vehicle parts. Salvage yards that sell salvaged vehicle parts would be exempt from collection site status if they store 2,500 or fewer tires on site. Metal salvagers who are not selling salvaged vehicle parts would be required to register as a scrap tire collection site once they reach 500 scrap tires.

Operations considered to be “automotive recyclers” by Part 169, may be in violation of Act 300 if not licensed to operate under that code.

See Secretary of State Web site (<http://www.michigan.gov/sos>) per Part 1 - #2.

[Back to top of document](#)

1.2 Q: *Should all solid waste transfer stations register as collection sites unless they can show the DEQ that the tires are or will be stored only within the licensed area?*

A: Yes, licensed transfer stations with over 500 scrap tires should, but are not required to, register as a collection site, per Section 16901(d), if they can show the DEQ that the tires are stored in compliance with Part 169, and within the licensed area per their Part 115 license. However, transfer stations licensed under Part 115 with less than 2,500 tires that never “touch the ground” and are placed directly into a collection trailer or roll off located in the licensed area, are considered to be complying with the Part 169 storage requirements. A solid waste transfer station that does not have an operating license because it is exempt from the operating license requirements of Part 115 must register as a scrap tire collection site once it has over 500 scrap tires. If such an exempt solid waste transfer station has

less than 500 scrap tires, it must comply with the operating requirements and rules administered under Part 115. These requirements include the handling/salvaging of materials such as scrap tires as long as the scrap tires are stored in a manner approved by the solid waste control agency in compliance with Part 169.

[Back to top of document](#)

1.3 Q: *During an area-wide tire cleanup, over 500 tires were stored on the ground overnight; does the site need to register as a collection site?*

A: The tires need to be loaded directly into a truck/trailer and hauled out. If the intention is to store overnight on the ground (outdoor tire storage), the site needs to register as a collection site as required by Part 169 per Section 16901(d)(i).

[Back to top of document](#)

1.4 Q: *A landfill is registered as a scrap tire collection site and is bonded. They chip the tires and bury them in the landfill or use them as aggregate in their leachate collection system as authorized under the landfill's license. Is this facility considered an end-user?*

A: Yes, they would be an end-user per Section 16901(i)(ii) if they use the chips as an aggregate in their leachate collection system since the operating license authorizes this use of scrap tires. If the chips are simply buried (disposed of) in the landfill that does not constitute an end-use and would not qualify them as an end-user. (However, under Section 16902(1)(c) this is a disposal area licensed under Part 115 and, therefore, is a legal location to which a person can deliver tires.) The landfill would not be required to register as a collection site but would have to complete the end-user certification to qualify for the end-user exemption under Part 169. A landfill that is authorized to use scrap tire chips as daily cover would also qualify as an “end-user.”

[Back to top of document](#)

1.5 Q: *Would a retail store/facility be allowed to store 1,499 scrap tires (<1,500 for a collection site) between two pieces of property if one of those properties was their retail operation and the other piece of property was located three (3) blocks away but not an adjacent piece of property?*

A: No. The properties have to be adjacent. In this case, the property three blocks away is not adjacent to the property on which the retail operation is being conducted. This means that the non-adjacent property is covered under the definition of Section 16901(d)(i) and that it is required to be registered if there are 500 or more tires on it. This hinges on the fact that it must be both associated with a retail operation (which it is) AND it must be adjacent (which it is NOT).

[Back to top of document](#)

1.6 Q: *Can the DEQ compel/order the cleanup of a site with less than 500 tires?*

A: Under Part 169, the DEQ cannot compel/order the cleanup of a site with less than 500 tires. The DEQ can work with the local authorities, township, fire department, zoning, etc. in an effort to address these sites. Furthermore, if necessary, under Part 115, the DEQ can compel/order the cleanup of scrap tire sites with less than 500 tires if the site(s) are determined to be injurious to human health or the environment or create a nuisance during storage or use.

[Back to top of document](#)

1.7 Q: *Does a collection site (in compliance with Part 169) have to provide the DEQ proof of property ownership and a site map (updated) each year?*

A: Yes, collection sites must update documents annually, per Sections 16903 and 16904.

[Back to top of document](#)

2. Section 16901(t) “Scrap tire”

[Back to top of document](#)

2.1 Q: *What is a “scrap tire?”*

A: Section 16901(1)(t) defines a scrap tire as “a tire that is no longer being used for its original intended purpose including a used tire, a reusable tire casing, or portions of a tire.” This definition was specifically crafted in the original scrap tire statute to mean that all tires were considered “scrap tires” if they had been used, but are not now in use on a tractor, other farm machinery, or vehicle. Scrap tire does not include a vehicle support stand.

The DEQ’s position on regulated tires is as follows and is supported by the Department of the Attorney General and has been upheld in a 1998 criminal court case in Calhoun County, (see [Attachment 2](#), Court record, Lesh, Martin vs. State of Michigan, 1998).

- a. New tires (never been on a vehicle), new retreads, and newly remanufactured tires (never been used on a vehicle since they were reconditioned) are not regulated as scrap tires.
- b. Any tire currently “being used” (i.e., rimmed and mounted on a vehicle) is not regulated as a scrap tire.
- c. Tires being used as a vehicle support stand (defined in Part 169), are not regulated as scrap tires.
- d. All other tires “previously used,” but not, at the time in question, “being used for their original intended purpose” (i.e., rimmed and mounted on a vehicle) are subject to the provisions of Part 169 regardless of their value, condition, or proposed future use. These tires are used to determine what constitutes a “collection site,” what must be transported by a registered hauler, and what must be properly manifested, properly stored, and covered by proper bonding.

[Back to top of document](#)

3. Section 16901(u) “Scrap tire hauler”

[Back to top of document](#)

3.1 Q: *Does the definition of “scrap tire hauler” allow railroads, Great Lakes shipping vessels, and interstate trucking companies to operate as scrap tire haulers using the registration of a shipping or receiving contractor?*

A: Section 16905 requires scrap tire haulers to register annually with the DEQ. Section 16901(1)(u) defines a scrap tire hauler as “a person who, transports more than 7 scrap tires at once in a vehicle, on a public road or street.”

Railroads, and Great Lakes vessels do not fall within the definition of “scrap tire hauler” whenever they are transporting scrap tires because they are not using vehicles as defined in Part 169 and are not transporting scrap tires on a public road or street. Trucking companies would fall under the definition of “scrap tire hauler.” Section 16905 makes no exemption for trucking companies hauling under contract with another person, thus they must independently register if they intend to haul scrap tires.

The fact that some of these haulers may be transporting scrap tires in interstate commerce does not mean that the state may not require such haulers to register and otherwise comply with Part 169. The DEQ is not authorized to allow interstate trucking companies to operate as scrap tire haulers under the registration of another person who is shipping or receiving scrap tires.

[Back to top of document](#)

3.2 Q: *Do car/auto crushers need to register as a scrap tire hauler?*

A: Yes, per Section 16901(u). Prior to crushing, the vehicle’s tires are removed from the vehicle and placed inside the vehicle. Since the tires are no longer on the vehicle, they are scrap tires. Since most transporters move more than one vehicle at a time (or additional tires are placed inside the vehicle prior to crushing), more than seven scrap tires would be transported at any given time. Therefore, the transporter would be considered a scrap tire hauler and would be required to be registered as a scrap tire hauler. This also applies to vehicles that are not crushed. If a total of seven or more scrap tires are placed inside the vehicle/vehicles being transported, the transporter would be required to register as a scrap tire hauler.

[Back to top of document](#)

3.3 Q: *Is the definition of “tire chip” specific to those producing 2”x2” materials?*

A: Per Section 16901(y), “tire chip,” means any of the following:

- (i) Not more than 2 inches by 2 inches in size and meets requirements for size, metal content, and cleanliness as specified in an executed contract for delivery of the material by the scrap tire processor.
- (ii) Not more than 3/8 inch by 3/8 inch in size and sufficiently free from steel to be used in the construction and modification of sports surfaces such as golf course turf, athletic field turf, athletic tracks, hiking surfaces, livestock show arena surfaces, and playgrounds.
- (iii) To be used in a drain field approved under a district or county sanitary code.
- (iv) To be used as ground cover or mulch, if, in aggregate, 95% of the material is equal to or less than 3/4 inch in size in any dimension and the material contains less than 1% by weight or volume of steel and fiber.
- (v) Approved by the department for use at a landfill as daily cover or a leachate collection system protective layer or for access road construction within a lined cell.

[Back to top of document](#)

3.4 Q: *What is the definition of a scrap tire processor?*

A: The definition of a scrap tire processor, per Section 16901(v) is either:

- (i) A person who is authorized by this part to accumulate scrap tires and is engaged in the business of buying or otherwise acquiring scrap tires and reducing their volume by shredding or otherwise facilitating recycling or resource recovery techniques for scrap tires.
- (ii) A portable shredding operation.

[Back to top of document](#)

3.5 Q: *Who does not have to manifest scrap tires being transported?*

A: Under Section 16901(u) “A person who is transporting his or her own tires to a location authorized in Section 16902(1)” is not a scrap tire hauler. Therefore, this person does not have to manifest his load of tires and he is not subject to Section 16905. Other exclusions from the definition of scrap tire hauler are spelled out in Section 16901(u)(i) – (vi). In Section 16906(2), it appears that scrap tire collection sites, end-users, etc. do not have to manifest or keep records of tires delivered to them by entities other than scrap tire haulers; however, we recommend they keep records and manifests of all tires received in order to protect themselves.

[Back to top of document](#)

3.6 Q: *Someone who collects tires to make new products from them is a registered hauler but always has less than 500 tires at his site so he is not a collection site. Hence, the tires at his site are not managed under Part 169. So are the tires at this site solid waste and is he engaged in solid waste disposal either through his storage of tires before reuse or through the actual reuse (processing)? Tires are not in the definition of source or site separated materials and the source separation designation for tires is only for waste to energy recovery. The site is usually below the volume threshold of Rule 104(v) of the Part 115 Rules so it probably is not processing. Does he have a waste pile?*

A: Per Section 16901(i)(iv) the site would be an end-user.

[Back to top of document](#)

3.7 Q: *How are we defining “A member of a nonprofit service organization who is participating in a community service project...?”*

Would this “member” include a business who is donating transportation or would “member” have to be someone who is officially a member of the nonprofit organization?

A: Member is defined as: “a person belonging to some organization, association, society, community, party, etc.” Therefore, per Section 16901(u)(ii), an official member of the actual non-profit organization could haul tires without being a registered hauler. A business donating transportation and hauling more than 7 scrap tires at once in a vehicle on a public road or street would have to be a registered scrap tire hauler per Section 16901(u).

[Back to top of document](#)

3.8 Q: *Would a business that is fulfilling the requirements of a Supplemental Environmental Project as part of a consent order, etc, be required to be a registered hauler?*

A: Yes, per Section 16901(u), a person who is transporting more than seven scrap tires at once in a vehicle on a public road or street is a scrap tire hauler and therefore needs to be a registered hauler per Section 16905.

[Back to top of document](#)

3.9 Q: *When is processed tire material no longer considered regulated under Part 169?*

A: Section 16901(e) provides the requirements for scrap tires to be considered a commodity exempt from certain portions of Part 169.

[Back to top of document](#)

3.10 Q: *Where should the scrap tire hauler number be placed on the truck, trailer, or both. Is there a minimum height for the numbers? Does the number on the truck/trailer need to be preceded by the words "Scrap Tire Hauler"?*

A: The hauler number must be visibly displayed in a vehicle transporting scrap tires. The number can be placed on the truck or the motorized hauling unit. The number can be of any type of material; stick on numbers, painted on, in the vehicle window on a piece of paper, or on a magnetic sign as long as it is visible somewhere on the vehicle. There is no requirement on how high the numbers have to be but should be "visible", meaning that the numbers should be of a reasonable size to be seen and identified from the outside of the vehicle. The hauler is not required to precede the number with "scrap tire hauler."

[Back to top of document](#)

3.11 Q: *Is a farmer allowed to pick up and transport seven or more scrap tires from a retail facility or other site of generation without a scrap tire hauler registration?*

A: Yes, if the tires are intended to be used in a feed storage location and the person hauling the tires is the owner of the farm as defined in Section 2 of the Michigan Right to Farm Act (1981 PA 93), they do not need to register as a hauler. Per 16901(1)(u)(iii), a scrap tire hauler does not include an owner of a farm transporting scrap tires intended for use in a feed storage location. However, if this is to be a regular occurrence (a large number of tires more than once a year), obtaining a registration is encouraged since it does not cost anything and would protect the farmer in the event of being stopped for hauling tires. The retailer and farmer should also be encouraged to keep records of the transaction for their own protection.

[Back to top of document](#)

3.12 Q: *If a registered scrap tire hauler is hauling their own tires from one store to another location and has less than 1,500 tires at the second store location, do both stores need to be written on the manifest?*

A: Yes, both store locations must be written/listed on the manifest.

[Back to top of document](#)

3.13 Q: *How is a scrap tire transportation record corrected if the generator and/or hauler of scrap tires incorrectly completed the information and the final destination notices the error? For example, the record indicates 550 scrap tires are being delivered to the collection site and only 300 tires are actually delivered.*

A: The final destination can prepare an amended scrap tire transportation record. This record should contain all the information from the original record with the exception of the item(s)

being amended. The record should be clearly labeled on the top that it is an amended record and include an explanation of the need for an amended manifest/record. The final destination must then mail the amended copy back to the generator. In addition, the final destination should notify the hauler that there was a discrepancy.

[Back to top of document](#)

3.14 Q: *How should manifests be handled when the hauler is the same as the generator or collection site?*

A: Signatures for the hauler and the collection site can be the same if they are the same company, but cannot be signed in advance of the tires actually being hauled or delivered to the collection site. The signor must wait until they pick up the scrap tires (hauler) or the tires are delivered at the collection site (collection site/disposal location) to sign the manifest as the collection site. Once the manifest is signed by the collection site, it must be sent back to the generator. The manifest is then complete and delivery of the tires to the location on the manifest is certified.

[Back to top of document](#)

3.15 Q: *Is the owner and/or operator of a mobile scrap tire shredder required to register as a scrap tire hauler and/or required to register as a scrap tire collection site?*

A: Portable shredding operations are considered to be processors and must register as a collection site per Section 16904(1).

If a mobile shredder is used at a scrap tire site only to shred tires, and the owner or operator of the mobile shredder is not also engaged in hauling scrap tires to and from the site or storing whole scrap tires or shredded tires at the site, then the owner or operator of the mobile shredder is not required to register as a scrap tire hauler. If the owner and/or operator of the mobile shredder also transports the shredded tires directly to a certified end-user, other scrap tire processor, tire retailer, scrap tire recycler, landfill, or registered scrap tire collection site, then yes, the owner or operator of the mobile shredder is required to register as a scrap tire hauler and comply with the applicable Sections of Part 169.

In addition, if the owner and/or operator of a mobile shredder wants to be on the DEQ's approved processor list and therefore be eligible as a processor under the scrap tire cleanup grant program, then by the definition of "scrap tire processor" the owner and/or operator of the mobile shredder must be authorized to accumulate scrap tires at a registered scrap tire collection site. Therefore, the owner and/or operator of the mobile shredder must register as both a scrap tire hauler and a scrap tire collection site, whether they use that site or not, in order to be grant-eligible as an approved processor.

If a person is transporting only a commodity, they do not need to register as a scrap tire hauler.

[Back to top of document](#)

3.16 Q: *A solid waste hauler applies for a scrap tire-hauling license. He then sends a truck out to pick up only tires at the curb in a municipality. He takes the tires to a licensed solid waste disposal facility to consolidate the load with others sorted at the facility. The facility has no more than 500 tires at a time. How does the manifest system work? Where do you start the manifest tracking?*

A: If the solid waste hauler was hired by a municipality to pick up tires at the curb throughout its borders, the solid waste hauler could use the DEQ approved Consolidated Load Scrap Tire Transportation Record EQP 5128a (manifest) in conjunction with the DEQ approved Scrap Tire Transportation Record EQP 5128. The Consolidated Load Scrap Tire Transportation Record would be handled in the following manner: the municipality's name would be listed as the generator on the Scrap Tire Transportation Record with the words "See Consolidated Load information," check the consolidated load box, and indicate the number of pages attached. The solid waste hauler's name would be listed as the hauler, and the landfill's name as the final destination. The individual addresses and numbers of tires would be tracked on the Consolidated Load Scrap Tire Transportation Record so the municipality would have a record of the number of tires picked up from each residence. Within 30 days of receiving the consolidated load manifest, the final destination should mail a completed consolidated load manifest to the municipality as the person who arranged for removal of the tires.

[Back to top of document](#)

3.17 Q: *A scrap tire hauler is required to maintain a record (manifest) of each load or consolidated load of scrap tires he or she transports on forms approved by the DEQ that contain all of the information required under Part 169 and is then required to leave a copy of that record with the person who contracted for removal of the tires at the time of the removal. What is a consolidated load? How would the manifest requirement work for a consolidated load?*

A: A consolidated load occurs when a single hauler is picking up small quantities of scrap tires from multiple locations or generators who have contracted with the hauler. These pickups must occur on the same day and be taken to the same final destination. The scrap tire hauler would use the DEQ approved Consolidated Load Scrap Tire Transportation Record (manifest) in conjunction with the DEQ approved Scrap Tire Transportation Record in the following manner: "See Consolidated Load Information" would be listed in the generator portion of the manifest in Part 1 of the Scrap Tire Transportation Record, the scrap tire haulers' name as the hauler in Part 2, and the name of the final destination where the tires are delivered would be listed in Part 3 of the manifest. The individual names and addresses of the locations where the tires are picked up by the scrap tire hauler, and numbers of tires would be tracked on the Consolidated Load Scrap Tire Transportation Record. A copy of the Scrap Tire Transportation Record and the Consolidated Load Scrap Tire Transportation Record would need to be made on a copy machine (or a duplicate copy filled out by hand) and left at each location where the hauler picks up scrap tires that become part of the consolidated load.

[Back to top of document](#)

3.18 Q: *A retreading operation has satellite locations that consolidate casings for pick up by the main retreading operation. The satellite locations will go out and bring casings back to their facility. The main retreading operation will pick up those casing from the satellite location, bring them back to the main facility, and retread the casings. The satellite locations and the retreader are under the same ownership. Do the satellite locations that are transporting casings to their facilities need to be registered haulers or do they meet the retreader hauler registration exemption?*

A: Section 16901 defines a retreader as a person who retreads, recases, or recaps tire casings for reuse. Therefore, only the actual retreader is exempt from the hauler registration and record keeping requirements. The actual retreader that is picking up casings and delivering them directly to the location where the retreading will take place is

exempt from the scrap tire hauler registration and manifesting requirements. Tires delivered to satellite locations, even if being delivered by the actual retreader, must be delivered by a registered scrap tire hauler and manifested appropriately. Although a retreader delivering casings to his or her own retreading plant are exempt from the scrap tire registration and manifest requirements, in accordance with Section 16906(4), the retreader still must maintain the following: (a) A retread work order that includes the customer's name, date of transaction, retreader DOT identification number pursuant to Title 49, Transportation, Code of Federal Regulations, Part 574, Tire Identification and Recordkeeping, with order number and details of casing information for the casing intended for processing. Work orders shall reflect the number of tires that are being transported and retreaded. (b) A work order sales report that specifies that work process detail for the customer work order. This report shall be returned to the customer with the work order number and invoice. (c) An invoice stating the sales transaction of the retread process that was completed for the customer.

In summary: A retreader hauling casings to their own retread plant is exempt. A retreader hauling seven or more casings to any location other than the retread plant or hauling seven or more unretreadable casings/scrap tires must be registered to transport scrap tires. Customers delivering seven or more casings/scrap tires to the retread plant or satellite location must be registered haulers.

[Back to top of document](#)

3.19 Q: *Section 16901(u)(i) states a person who is transporting his or her own tires to a location authorized in Section 16902(1) is not a scrap tire hauler. Who does this exempt?*

A: The intent of Section 16901(u)(i) is to allow the individual person, who happens to have a few scrap tires, to dispose of those scrap tires without having to register as a scrap tire hauler. It was not the intent to exempt commercial businesses from the scrap tire hauler registration requirement.

4. Section 16901(x) "Tire"

[Back to top of document](#)

4.1 Q: *Are "HiLo" tires regulated under Part 169?*

A: Section 16901(x) broadly defines a tire as: "...a continuous solid or pneumatic rubber covering encircling the wheel of a tractor, other farm machinery, or a vehicle." It is the DEQ's position that scrap "HiLo" tires are a form of solid waste that are regulated under and subject to the collection, transportation, and storage requirements of Part 169.

- See letter dated September 12, 1996, from Ms. Joan Peck, Chief, Solid Waste Program Section, Waste Management Division, former Department of Environmental Quality, to Mr. Bill VanDyke. ([Attachment 3](#))

[Back to top of document](#)

5. Section 16901(aa) "Tire storage area"

[Back to top of document](#)

5.1 Q: *What is a tire storage area?*

A: “Tire storage area” means a location within a collection site where tires are accumulated.

- See Operational Memo 169-1, Revision 3, “Tire Storage Area and Collection Site Bonding,” dated March 2, 2009. (http://www.michigan.gov/documents/deq/DEQ-WHMD-STP-OpMemo_169-01_268972_7.pdf).

[Back to top of document](#)

6. SECTION 16903, Accumulation of scrap tires outdoors by site owner/operator:

Section 16903 (4) “Bonding”

[Back to top of document](#)

6.1 Q: *What are bonding requirements for a scrap tire collection site?*

A: The amount of the bond shall be not less than \$25,000.00 per quarter acre, or fraction thereof, of outdoor storage, and \$2.00 per square foot of tire storage area in a building. For a collection site with fewer than 2,500 scrap tires (total of all scrap tires, stored in all locations of a collection site, including but not limited to those stored outside, in buildings and in trailers), the bond shall not exceed \$2,500.00.

See Operational Memo 169-1, Revision 3 “Tire Storage Area and Collection Site Bonding” (http://www.michigan.gov/documents/deq/DEQ-WHMD-STP-OpMemo_169-01_268972_7.pdf).

[Back to top of document](#)

6.2 Q: *What are the requirements for bonding of trailers used for storing scrap tires?*

A: The DEQ will “exclude tires stored in a covered vehicle from Part 169 bonding requirements without regard to the number of tires at the collection site.” A “covered vehicle” is defined to be one that is a fully enclosed vehicle. To be fully enclosed, a vehicle must consist of sides, a top, and an entryway that is secure and made of solid material without gaps. Also, the covered vehicle must be in road worthy condition in order for the allowance to apply. This is based on Section 16901(bb), which defines a “vehicle” as “every device in, upon, or by which any person or property is or may be transported or drawn upon a highway...” Vehicles to which the allowance applies must be able to be legally drawn upon or transported on a highway in this state.

[Back to top of document](#)

6.3 Q: *If a collection site has a cash bond, can the interest on the cash bond be used to bond an additional tire storage area?*

A: *Yes, the Department will recognize the additional financial assurance provided by interest on the account, up to 6% per year and credit the facility accordingly. However, the facility is not due to be refunded the interest until the cash bond is released, so no funds will be returned to the facility until the time the cash bond is released.*

[Back to top of document](#)

6.4 Q: *If a site that has met the compliance requirements, i.e., a collection site that has been in compliance with the storage requirements for the requisite one-year period and had their bond released, wanted to expand their operation to encompass more storage area, would the DEQ require the site to bond the additional area or not?*

A: If they want to have more tires on site, they will have to bond the corresponding scrap tire storage area. This would be bonded at the rate of \$25,000.00 per quarter acre or fraction thereof until they can show that the site has been in compliance with the site requirements of Section 16903(1) and, if applicable, Section 16903(2), for at least one year, is a processor and removes not less than 75% of the scrap tires by weight or volume that year, and certifies compliance with the appropriate requirements on a form approved by the DEQ.

[Back to top of document](#)

6.5 Q: *If, for some reason, the facility does not contain a qualifying “commodity storage area” then each one acre parcel would require a \$100,000.00 bond because Section 16903(4) states that a bond shall not be less than \$25,000.00 per 1/4 acre?*

A: Yes, per Section 16903(4), each parcel would require a bond.

[Back to top of document](#)

6.6 Q: *Does Section 16903(5)(c) mean that a site that stores a commodity must store that commodity in individual one-acre parcels as long as they are stored in accordance with the requirements of Section 16903? In other words, if they have a ten-acre site they must have ten one acre storage areas?*

A: No, this means one (1) acre total is allowed as a commodity storage area.

[Back to top of document](#)

6.7 Q: *Can the DEQ require bonding for a trailer/vehicle that is not road worthy?*

A: The road worthy condition is derived from the Section 16901(bb) definition of a vehicle. If a trailer/vehicle is not road worthy, a bond is required for the trailer/vehicle.

[Back to top of document](#)

6.8 Q: *Has the form to describe the commodity storage area that may qualify for exemption from bonding under Section 16903(4) of Part 169 been approved for use?*

A: Yes. Please see the Commodity Storage Area Qualification Form at http://www.michigan.gov/documents/deq/deq-whmd-stp-eqp5127_251264_7.pdf

[Back to top of document](#)

6.9 Q: *On that form it states that: “The total acreage of the commodity storage area may only be one (1) acre or less; additional commodity storage areas must be bonded in accordance with Section 16903(4).”*

Does that mean that a facility is only permitted to have a single unbonded one-acre commodity storage area on site and that all others must be bonded at \$25,000.00 per 1/4 acre?

A: No. Per Section 16903, a facility is only permitted to have a total of one acre of unbonded commodity storage area. This one acre could be more than a single physical location at the collection site, but the total of those areas cannot be more than one acre. All commodity storage areas over this one acre must be bonded.

[Back to top of document](#)

6.10 Q: *A site would like to use an enclosed metal storage container to store additional tires in their yard. Would the metal storage container be bonded the same as a building?*

A: Yes, per Section 16903(4), as long as the metal storage container is stationary, has walls, roof and door it can be viewed as a shed/building and bonded as such. However, if the metal storage container can be placed on a truck and the site plans to utilize the metal storage container on a truck, then it can be considered a vehicle and no bond would be required. However, for collection sites with fewer than 2,500 tires, the bond shall not exceed \$2,500.00.

[Back to top of document](#)

6.11 Q: *If a compliant scrap tire collection site moves to a new site, would a bond be required for the new site?*

A: Yes, per Sections 16903(4) and 16903b, a bond is required until the new scrap tire collection site has operated in compliance with Part 169 for one year.

[Back to top of document](#)

6.12 Q: *How do we add additional property to a site that is already registered?*

A: The collection site must provide an amended scrap tire collection site application. The site map must show the additional area to be covered by the registration. Additional bonding must also be provided, if required. If the additional property is owned by another entity/person, appropriate signatures must be provided.

[Back to top of document](#)

6.13 Q: *Is a bond required for a scrap tire chip storage area?*

A: Per Section 16901(e) the tire chips are a commodity, no bond would be required for the commodity stored in a qualifying commodity storage area. All other tire chips that are not commodities or commodity storage areas over a total of 1 acre on the site would require a bond.

[Back to top of document](#)

6.14 Q: *Does a portable shredder require a bond for their associated site?*

A: Yes, under specific circumstances.

A portable shredder is required to register as a Scrap Tire Collection Site, pursuant to Section 16904(1) [but not necessarily because there are 500 or more scrap tires on the site].

A portable shredder is also a Scrap Tire Processor, pursuant to Section 16901(v)(ii).

Having been thus defined as a scrap tire collection site and as a processor, all applicable requirements and/or exemptions of Sections 16903 and 16903(b) apply, including bonding. Since Sections 16903 and 16903(b) do not specify a minimum number of scrap tires at regulated sites, even those sites with less than 500 scrap tires (scrap tire collection site by definition) may be required to bond those tires. Tires that are not stored in a vehicle or are not a commodity are required to be bonded. See [Attachment 1](#), page 2, Scrap Tire Bond Requirement Flow Chart.

[Back to top of document](#)

7. Section 16903a, Statewide fire plan:

See [Attachment 4](#), Statewide Plan for Response to Fires at Scrap Tire Collection Sites, issued June 30, 1998.

[Back to top of document](#)

7.1 *Q: If a fire department expends funds in response to a tire fire, who pays back the fire department?*

A: The owner of the scrap tire site should pay the money from their own funds. If that is not done per Section 16903(4), the bond for the collection site can be called upon. If the bond is insufficient or no bond exists for the site, scrap tire regulatory funds appropriated for fire response can be utilized. A fire department request for reimbursement would be processed through Lansing. Also, per Section 16910, a person who incurs costs as the result of a fire may bring a circuit court action against the collection site owner or operator.

[Back to top of document](#)

7.2 *Q: Do tire grant recipients have to present plans in order to receive funds for cutting in fire lanes at existing scrap tire collection sites?*

A: Yes, grant recipients who are receiving funds for cutting in fire lanes must provide plans outlining the removal of scrap tires. These plans must be signed and approved by the local fire department and the DEQ and becomes a part of the grant contract.

[Back to top of document](#)

8. Section 16903b Bond exemptions

[Back to top of document](#)

8.1 *Q: Who is eligible for the exemption from bonding?*

A: Only “the owner of a collection site that is a scrap tire processor...” is eligible for the exemption from the bonding requirement under Section 16903b.

[Back to top of document](#)

9. SECTION 16903c Maintenance limiting mosquito breeding

[Back to top of document](#)

10. Section 16904 and SECTION 16905 Site/Hauler Registration:

Sections 16904(2) and 16905(1) “Site/Hauler Registration Denial”

[Back to top of document](#)

10.1 Q: *Can the DEQ deny registration to a scrap tire collection site or scrap tire hauler? If so, for what reason?*

A: Administratively complete applications may be denied registration by the Resource Management Division, Storage Tank and Solid Waste Section Chief for significant, uncorrected violations of Part 169, and/or for lack of sufficient bonding. Major collection site storage violations, lack of proper record keeping, or disposal at illegal sites are some of the significant violations that could cause registration denial by the DEQ. Registration applications that are lacking bonding information, acceptable site maps, or are otherwise lacking in the required information will be returned to the applicant as administratively incomplete.

- See Registration Procedures (PLEASE NOTE: THESE DOCUMENTS ARE CURRENTLY UNDER REVISION. A link or attachment will be added in this Interpretation Document once revision is complete.)

[Back to top of document](#)

10.2 Q: *Does a registered scrap tire hauler or registered scrap tire collection site have any rights under the Administrative Procedures Act, 1969 PA 306, as amended (Act 306) rights?*

A: Yes, the DEQ should treat scrap tire hauler and collection site registrations as “licenses” for the purposes of Act 306. These registrations fall within the very broad definition of “license” in MCL 24.205(1).

The specifics are as follows: Act 306 defines “contested case” as a proceeding in which the determination of a party’s rights, privileges, etc. “is required by law to be made after an opportunity for an evidentiary hearing. MCL 24.203(3). The legal requirement for an evidentiary hearing may be either statutory (i.e. provisions of the particular licensing statute) or constitutional (i.e., due process clauses of U.S. or state constitution prohibiting the state from taking away a protected property or liberty interest without affording procedural due process, including reasonable notice and opportunity to be heard, etc.) Here are three distinct situations concerning whether there is a legal requirement for an evidentiary hearing, and thus, a right to a contested hearing:

- Denial of initial application for registration – No right to a hearing because Part 169 does not require it and there is no constitutionally protected property interest in obtaining such a license in the first instance (i.e., no legitimate claim of entitlement to it).
- Denial of application for renewal – No statutory right to hearing under Part 169, but probably a constitutional right to a hearing based upon due process principles, the theory being that having once been licensed, the applicant has some legitimate expectation of being able to continue in the business, triggering procedural due process protections. Where the DEQ denies an application for renewal of a “license,” whether under Part 115 or 169, there is a constitutionally based right to an evidentiary hearing, and therefore, a contested case.
- Revocation/suspension of existing registration – No express statutory right to a hearing under Part 169, but a clear constitutional right based upon due process clause, and a

legitimate expectation of being able to continue regulated activity within the term of the license.

Rogers Hearing requirements:

The requirement for a “Rogers” hearing is found in Section 92 of the Act 306. It is a precondition to proceedings for “suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a license.”

Thus, by its terms, it does not apply to and is not required for either the denial of an initial application for registration, or the denial of an application for renewal of a registration. Clearly, such a Rogers hearing is required before the DEQ revokes or suspends an existing registration or license.

In summary:

- 1) Denial of initial application for registration requires neither a Rogers Hearing nor a contested case hearing.
 - 2) Denial of application for renewal of registration does not require a Rogers Hearing, but would trigger a constitutionally based right to an evidentiary/contested case hearing.
 - 3) Revocation or suspension of an existing registration requires both a Rogers Hearing and a contested case hearing.
- See Registration Procedures (PLEASE NOTE: THESE DOCUMENTS ARE CURRENTLY UNDER REVISION. A link or attachment will be added in this Interpretation Document once revision is complete.)

[Back to top of document](#)

10.3 Q: *Does DEQ staff have inspection authority at scrap tire collection sites?*

A: The authority to inspect is contained in Section 16909a. This allows the DEQ to enter at reasonable hours a tire retail establishment, vehicle owner or operated by a scrap tire hauler for the transport of scrap tires, or collection site or other place where scrap tires are or have been present, and may inspect the location or other place for the purposes of enforcing or administering Part 169. An investigation or inspection under Part 169 must comply with the United States and Michigan constitutions.

Part 169 establishes specific requirements to be met by a collection site; compliance with these requirements can only be verified through inspections by DEQ staff. These requirements include those established in:

- 1) Section 16903, imposing compliance responsibilities based on the number of tires on site;
- 2) Section 16903(4), describing requisite bonding amounts based on the area and types of tire storage area on site;

- 3) Section 16903, imposing specific requirements pertaining to the design and operation of a collection site, and;
- 4) Section 16903b, describing bonding exemptions based on compliance with site requirements and exempting a number of tires stored on site based on several factors.

DEQ staff that are refused inspection entry or have difficulty in gaining access to properly inspect collection sites should contact the appropriate Office of Criminal Investigations officer for guidance and/or search warrants, if necessary.

[Back to top of document](#)

11. Section 16904a, End-user:

[Back to top of document](#)

11.1 Q: *Can DEQ inspectors look at or request copies of the receiving facility's receipts or logbooks to track the number of scrap tires delivered to the facility by entities who are not registered scrap tire haulers?*

A: Yes. The retention requirement applies to records required by Sections 16905(3), 16905(4), and 16906.

[Back to top of document](#)

11.2 Q: *Can a currently registered scrap tire collection site become an exempt end-user? At what point would the exemption occur?*

A: Yes, a collection site must maintain compliance with Part 169 (including registration and bond), until it is able to certify that 75% of the scrap tires, by weight or volume, that are stored on the site each calendar year are recycled or used for resource recovery, during that year, in accordance with Section 16904a. Therefore, if a site becomes an end-user in July, it could feasibly certify the following January. However, if the site becomes an end-user in July and cannot certify at the end of that calendar year that it was in compliance with Section 16904a, it will have to wait until the end of the next calendar year to certify exempt. The site would be required to be in compliance with Part 169 during this additional year or until they are able to make such certification. Note: 75% of what is stored during the calendar year must be recycled or used for resource recovery. Therefore, if on January 1, the site has 100,000 tires on site, and brings in another 100,000 tires during this calendar year, a total of 150,000 tires (or 75% of 200,000) must be recycled or used for resource recovery during that calendar year.

[Back to top of document](#)

11.3 Q: *When would a new end-user become an exempt end-user?*

A: A new end-user must be able to certify compliance with Section 16904a which requires that 75% of the scrap tires, by weight or volume, that are stored on the site each calendar year are recycled or used for resource recovery, during that year. A statement by a new end-user that it has not stored scrap tires on site during the previous calendar year is considered equivalent to the required certifications. Thus, for example, a facility newly permitted to burn tires under Part 55 can qualify for the end-user exemption by virtue of it not having stored tires on the site during the previous calendar year. A new end-user who has stored tires on site in the previous calendar year (e.g. as a registered collection site),

must be able to explicitly make the 75% recycle or use certification. Thus, a new end-user in this category will need to maintain its status as a registered collection site during the time that it demonstrates its ability to meet the use/recycling performance required to qualify for exemption.

[Back to top of document](#)

11.4 Q: *Must a new end-user operate an entire year before they can certify?*

A: No, an end-user may open any time during the calendar year, however the certification must cover the entire calendar year. To become exempt the site must be able to state that tires were not stored on site during the previous calendar year or certify that 75% of the scrap tires, by weight or volume, that were stored on site for the previous calendar year were recycled or used for resource recovery during that year. Therefore, it does not matter at what point during the year the end-user begins operation, as long as it can meet the certification requirements for the entire year.

[Back to top of document](#)

11.5 Q: *Can an end-user certify for the exemption in the middle of the year?*

A: Only if the end-user is certifying compliance with Section 16904a for the previous calendar year. However, the end-user would still be required to maintain compliance with Part 169 until the certification is received. Certification is required to meet the exemption.

[Back to top of document](#)

12. Section 16909, Violations/penalties:

[Back to top of document](#)

12.1 Q: *Under Section 16909(1) A person who violates this part when fewer than 50 scrap tires are involved is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$200.00 or more than \$500.00, or both for each violation.*

However, Section 16901 states that the minimum number of tires regulated under Part 169 as a collection site is 500 tires. So this section of Part 169 has no application?

A: No, Section 16909(1) would still apply even if an offense involves more than 50 scrap tires; officer discretion should allow the officer to write an appearance ticket for 50 of the offending tires. Violations can be issued for haulers who are hauling less than 500 tires or for record violations of less than 500 tires.

[Back to top of document](#)

13. Section 16910, Recovery actions for incurred costs:

[Back to top of document](#)

Attachments

Attachment 1 – End User, Processor and Bond Requirements Flow Charts	Attachment 2 – Leshner Court Decision
Attachment 3 – Part 169 Letter from Joan Peck to Bill Van Dyke	Attachment 4 – Statewide Plan for Response to Fires at Scrap Tire Collection Sites