



The following documentation is an electronically-submitted vendor response to an advertised solicitation from the *West Virginia Purchasing Bulletin* within the Vendor Self-Service portal at ***wvOASIS.gov***. As part of the State of West Virginia's procurement process, and to maintain the transparency of the bid-opening process, this documentation submitted online is publicly posted by the West Virginia Purchasing Division at ***WVPurchasing.gov*** with any other vendor responses to this solicitation submitted to the Purchasing Division in hard copy format.

Header # 7

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**General Information** | [Contact](#) | [Default Values](#) | [Discount](#) | [Document Information](#) | [Clarification Request](#)

Procurement Folder: 1682232

Procurement Type: Central Master Agreement

Vendor ID: 000000110798

Legal Name: TIRE & RUBBER INC

Alias/DBA:

Total Bid: \$731,250.00

Response Date: 06/10/2025

Response Time: 11:06

Responded By User ID: REZ88

First Name: Dolf

Last Name: Gonzalez

Email: dolf@tyrexresources.com

Phone: 847-894-3646

SO Doc Code: CRFQ

SO Dept: 0313

SO Doc ID: DEP2500000019

Published Date: 6/3/25

Close Date: 6/10/25

Close Time: 13:30

Status: Closed

Solicitation Description: REAP-Tire Collection Events Eastern & Northern Districts

Total of Header Attachments: 7

Total of All Attachments: 7



Department of Administration  
Purchasing Division  
2019 Washington Street East  
Post Office Box 50130  
Charleston, WV 25305-0130

State of West Virginia  
Solicitation Response

**Proc Folder:** 1682232  
**Solicitation Description:** REAP-Tire Collection Events Eastern & Northern Districts  
**Proc Type:** Central Master Agreement

Solicitation Closes	Solicitation Response	Version
2025-06-10 13:30	SR 0313 ESR06102500000007514	1

**VENDOR**  
000000110798  
TIRE & RUBBER INC

**Solicitation Number:** CRFQ 0313 DEP2500000019

**Total Bid:** 731250      **Response Date:** 2025-06-10      **Response Time:** 11:06:35

**Comments:** TRI offers a proven, cost-effective solution for the Northern and Eastern Districts. Our certified CDL drivers, well-maintained equipment, and optimized routing through TESSA, which provides electronic tracking and history through its portal we ensure efficiency and transparency. We prioritize compliance, safety, and exceptional customer service. With our comprehensive documentation and dedication to environmental standards, TRI is your trusted partner for reliable and sustainable waste tire management.

**FOR INFORMATION CONTACT THE BUYER**  
Joseph (Josh) E Hager III  
(304) 558-2306  
joseph.e.hageriii@wv.gov

**Vendor Signature X**      **FEIN#**      **DATE**

All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	3.1.2 Trailer Dropped at Site (per event) Eastern District	120.00000	EA	700.000000	84000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Commodity Line Comments:** Tire & Rubber Inc. (TRI) provides DOT-compliant trailers fully equipped for scrap tire collection events across the Eastern District. Each trailer undergoes pre-trip inspections and safety checks before deployment, ensuring compliance and readiness. Our \$700 per unit rate includes delivery, staging, and retrieval, as well as coordination with local authorities and event sites. TRI maintains a standby fleet to ensure timely swap capability and uninterrupted event execution, even in the most remote counties. Since 2021, we have successfully deployed thousands of trailers across West Virginia with zero missed events. Our team proactively engages in pre-event planning to ensure safe access, clear signage, and contingency routes. This pricing also reflects built-in flexibility for last-minute changes and additional coverage as requested by WVDEP. With regional hubs and 24/7 dispatch availability, TRI ensures reliability, safety, and professionalism at every stage of the deployment process.

**Extended Description:**

3.1.2 Trailer Dropped at Site (per event) Eastern District

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
2	3.1.4 Trailer Mileage to Disposal Eastern District	10000.000	MILE	4.250000	42500.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Commodity Line Comments:** Mileage is only charged on loaded trailers, transported by certified CDL drivers from collection sites to our DEP-approved monofil in Weston. Our rate of \$4.25 includes fuel, insurance, equipment depreciation, and optimized routing via TESSA. Each trip is GPS-logged, with complete disposal documentation and weigh tickets provided

**Extended Description:**

3.1.4 Trailer Mileage to Disposal Eastern District

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
3	3.1.3 Box Truck Per Truck Per Day Eastern District	25.00000	EA	750.000000	18750.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Commodity Line Comments:** Each \$750 unit includes a two-person team, trained in PPE, tire handling, and DEP customer interaction. Our DOT-compliant trucks come equipped with liftgates and tarping as needed. The rate covers full-day mobilization, fuel, and staging prep for Eastern District events

**Extended Description:**

3.1.3 Box Truck Per Truck Per Day Eastern District

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
4	3.1.3 & 3.1.4 Labor Per Hour for Employee Eastern District	4000.0000	HOUR	39.000000	156000.00

Comm Code	Manufacturer	Specification	Model #
76122405			

**Commodity Line Comments:** Labor is billed at \$39/hr and includes full-time CDL drivers, tire handlers, and loading staff. TRI covers all payroll burden, workers compensation, and training requirements. Each event includes sign-in logs, certified staff, and supervisor verification. Our labor force has many hours of experience across past projects with a flawless safety record.

**Extended Description:**

3.1.3 & 3.1.4 Labor Per Hour for Employee Eastern District

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
5	3.1.6 Trailer Rental Per Trailer Per Month Eastern District	200.00000	MO	375.000000	75000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Commodity Line Comments:** This rate reflects our dedicated trailer staging at regional collection hubs. This includes long-term parking, tire-only use enforcement, pre-swap checks, and rotation logistics. All trailers are inspected to maintain DOT and WV DEP readiness and swapped as needed for volume or wear.

**Extended Description:**

3.1.6 Trailer Rental Per Trailer Per Month Eastern District

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
6	3.1.2 Trailer Dropped at Site (per event) Northern District	120.00000	EA	675.000000	81000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Commodity Line Comments:** The drop rate for the Northern District includes logistics planning for dual events, rugged terrain coverage, and DOT-inspected trailers. Our expert team ensures readiness and location scouting when needed. Each drop includes stakeholder coordination and driver standby.

**Extended Description:**

3.1.2 Trailer Dropped at Site (per event) Northern District

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
7	3.1.4 Trailer Mileage to Disposal Northern District	5000.0000	MILE	4.250000	21250.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Commodity Line Comments:** TRI maintains the same mileage efficiency and documentation standard in the Northern District as in the Eastern. \$4.25/mile covers loaded transport to our permitted Weston site, with disposal receipts, routing logs, and compliance documentation provided per DEP standards

**Extended Description:**

3.1.4 Trailer Mileage to Disposal Northern District

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
8	3.1.3 Box Truck Per Truck Per Day Northern District	29.00000	EA	750.000000	21750.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Commodity Line Comments:** Each \$750 unit includes a two-person team, trained in PPE, tire handling, and DEP customer interaction. Our DOT-compliant trucks come equipped with liftgates and tarping as needed. The rate covers full-day mobilization, fuel, and staging prep for the Northern District events.

Extended Description:

3.1.3 Box Truck Per Truck Per Day Northern District

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
9	3.1.3 & 3.1.4 Labor Per Hour for Employee Northern District	4000.0000	HOUR	39.000000	156000.00

Comm Code	Manufacturer	Specification	Model #
76122405			

**Commodity Line Comments:** The labor rate supports local staffing, trained loadout crews, and CDL driver supervision. Northern District events often require pre-staging, extended hours, or mobile command setupsall included in this rate. Our crew has a 100% attendance and performance record.

Extended Description:

3.1.3 & 3.1.4 Labor Per Hour for Employee Northern District

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
10	3.1.6 Trailer Rental Per Trailer Per Month Northern District	200.00000	MO	375.000000	75000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Commodity Line Comments:** This \$350 monthly rental rate accounts for our rotating fleet dedicated to long-term storage or seasonal surge needs. All trailers are DOT certified, maintained and swapped monthly or as needed. We work directly with site managers to coordinate delivery and prevent overflow risk.

Extended Description:

3.1.6 Trailer Rental Per Trailer Per Month Northern District



Department of Administration  
Purchasing Division  
2019 Washington Street East  
Post Office Box 50130  
Charleston, WV 25305-0130

State of West Virginia  
Centralized Request for Quote  
Service - Prof

**Proc Folder:** 1682232

**Doc Description:** REAP-Tire Collection Events Eastern & Northern Districts

**Reason for Modification:**

Addendum #4 is issued to  
remove Section 3.1.11 from the  
project specifications.

**Proc Type:** Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2025-06-03	2025-06-10 13:30	CRFQ 0313 DEP2500000019	5

**BID RECEIVING LOCATION**

BID CLERK  
DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION  
2019 WASHINGTON ST E  
CHARLESTON WV 25305  
US

**VENDOR**

**Vendor Customer Code:** 000000110798

**Vendor Name :** Tire and Rubber Inc. (TRI)

**Address :** 710

**Street :** Grass Run Road

**City :** Weston

**State :** West Virginia

**Country :** USA

**Zip :** 26452

**Principal Contact :** Dolf Gonzalez

**Vendor Contact Phone:** 847-894-3646

**Extension:**

**FOR INFORMATION CONTACT THE BUYER**

Joseph (Josh) E Hager III  
(304) 558-2306  
joseph.e.hageriii@wv.gov

**Vendor  
Signature X**

**FEIN#** 20-2068048

**DATE** 10 June 2025

**All offers subject to all terms and conditions contained in this solicitation**

**ADDITIONAL INFORMATION**

The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Department of Environmental Protection, Environmental Advocate's Office, Rehabilitation Environmental Action Plan to establish an open-end contract for tire collection events in the Eastern and Northern Districts per the attached specifications and terms and conditions. This contract may be awarded to multiple vendors if it is in the best interest of the Agency.

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	3.1.2 Trailer Dropped at Site (per event) Eastern District	120.00000	EA	\$700/EA	\$84,000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**

3.1.2 Trailer Dropped at Site (per event) Eastern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	3.1.4 Trailer Mileage to Disposal Eastern District	10000.00000	MILE	\$4.25/Mile	\$42,500.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**

3.1.4 Trailer Mileage to Disposal Eastern District



INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	3.1.3 Box Truck Per Truck Per Day Eastern District	25.00000	EA	\$750/EA	\$18,750.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**  
3.1.3 Box Truck Per Truck Per Day Eastern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	3.1.3 & 3.1.4 Labor Per Hour for Employee Eastern District	4000.00000	HOUR	\$39/Hour	\$156,000.00

Comm Code	Manufacturer	Specification	Model #
76122405			

**Extended Description:**  
3.1.3 & 3.1.4 Labor Per Hour for Employee Eastern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	3.1.6 Trailer Rental Per Trailer Per Month Eastern District	200.00000	MO	\$375/MO	\$75,000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**  
 3.1.6 Trailer Rental Per Trailer Per Month Eastern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	3.1.2 Trailer Dropped at Site (per event) Northern District	120.00000	EA	\$675/EA	\$81,000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**  
 3.1.2 Trailer Dropped at Site (per event) Northern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	3.1.4 Trailer Mileage to Disposal Northern District	5000.00000	MILE	\$4.25/MILE	\$21,250.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**  
3.1.4 Trailer Mileage to Disposal Northern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	3.1.3 Box Truck Per Truck Per Day Northern District	29.00000	EA	\$750/EA	\$21,750.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**  
3.1.3 Box Truck Per Truck Per Day Northern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	3.1.3 & 3.1.4 Labor Per Hour for Employee Northern District	4000.00000	HOURL	\$39/Hour	\$156,000.00

Comm Code	Manufacturer	Specification	Model #
76122405			

**Extended Description:**  
3.1.3 & 3.1.4 Labor Per Hour for Employee Northern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	3.1.6 Trailer Rental Per Trailer Per Month Northern District	200.00000	MO	\$375/MO	\$75,000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**  
3.1.6 Trailer Rental Per Trailer Per Month Northern District

SCHEDULE OF EVENTS		
Line	Event	Event Date

# SOLICITATION NUMBER: CRFQ 0313 DEP2500000018

Addendum Number:

No.04

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The purpose of this addendum is to modify the solicitation identified as (“Solicitation”) to reflect the change(s) identified and described below.

## Applicable Addendum Category:

- ☒ Modify bid opening date and time
- ☐ Modify specifications of product or service being sought
- ☐ Attachment of vendor questions and responses
- ☐ Attachment of pre-bid sign-in sheet
- ☐ Correction of error
- ☐ Other

## Description of Modification to Solicitation:

Addendum issued to publish and distribute the attached documentation to the vendor community.

1. To modify specifications; Section 3.1.11 has been removed in its entirety from the project specifications.

**Additional Documentation:** Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

## Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: CRFQ DEP25\*19**

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

(Check the box next to each addendum received)

<input checked="" type="checkbox"/> Addendum No. 1	<input type="checkbox"/> Addendum No. 6
<input checked="" type="checkbox"/> Addendum No. 2	<input type="checkbox"/> Addendum No. 7
<input checked="" type="checkbox"/> Addendum No. 3	<input type="checkbox"/> Addendum No. 8
<input checked="" type="checkbox"/> Addendum No. 4	<input type="checkbox"/> Addendum No. 9
<input type="checkbox"/> Addendum No. 5	<input type="checkbox"/> Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

Tire and Rubber Inc. (TRI)

Company



Rodolfo Gonzalez, Jr | CEO

Authorized Signature

10 June 2025

Date

**NOTE:** This addendum acknowledgement should be submitted with the bid to expedite document processing.

Revised 6/8/2012



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
05/22/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> The Hilb Group of West Virginia LLC 3601 MacCorkle Ave, Ste 50  Charleston WV 25304		<b>CONTACT NAME:</b> Jennifer Stead <b>PHONE (A/C, No, Ext):</b> (304) 926-7400 <b>FAX (A/C, No):</b> (304) 926-7433 <b>E-MAIL ADDRESS:</b> jstead@hilbgroup.com	
		<b>INSURER(S) AFFORDING COVERAGE</b>	
		<b>INSURER A:</b> Beazley Insurance Co, Inc.	
		<b>INSURER B:</b> Berkshire Hathaway Homestate Insurance Company	
		<b>INSURER C:</b> BrickStreet Mutual Insurance Co	
		<b>INSURER D:</b>	
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

## COVERAGES

**CERTIFICATE NUMBER:** 2025 Master

**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			ENP0005337-05	12/06/2024	12/06/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			02APM038477-02	08/28/2024	08/28/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Medical payments \$ 5,000
	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			ENX0011838-01	09/10/2024	12/06/2025	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
	<input checked="" type="checkbox"/> <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input checked="" type="checkbox"/> Y <input type="checkbox"/> N		N/A	WCA4020927	03/15/2025	03/15/2026	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Pollution Liability			ENP0005337-05	12/06/2024	12/06/2025	Per pollution condition 1,000,000 Aggregate 2,000,000 Deductible 10,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Evidence of Insurance

## CERTIFICATE HOLDER

## CANCELLATION

State of WV WV DEP 601 57th St. S.E. Charleston WV 25304	<b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b>  <b>AUTHORIZED REPRESENTATIVE</b> 
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Department of Administration  
Purchasing Division  
2019 Washington Street East  
Post Office Box 50130  
Charleston, WV 25305-0130

State of West Virginia  
Centralized Request for Quote  
Service - Prof

<b>Proc Folder:</b> 1682232			<b>Reason for Modification:</b> Addendum #4 is issued to remove Section 3.1.11 from the project specifications.
<b>Doc Description:</b> REAP-Tire Collection Events Eastern & Northern Districts			
<b>Proc Type:</b> Central Master Agreement			
<b>Date Issued</b>	<b>Solicitation Closes</b>	<b>Solicitation No</b>	<b>Version</b>
2025-06-03	2025-06-10 13:30	CRFQ 0313 DEP2500000019	5

BID RECEIVING LOCATION

BID CLERK  
DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION  
2019 WASHINGTON ST E  
CHARLESTON WV 25305  
US

VENDOR

**Vendor Customer Code:** 000000110798  
**Vendor Name :** Tire and Rubber Inc. (TRI)  
**Address :** 710  
**Street :** Grass Run Road  
**City :** Weston  
**State :** West Virginia  
**Country :** USA  
**Zip :** 26452  
**Principal Contact :** Dolf Gonzalez  
**Vendor Contact Phone:** 847-894-3646  
**Extension:**

FOR INFORMATION CONTACT THE BUYER

Joseph (Josh) E Hager III  
(304) 558-2306  
joseph.e.hageriii@wv.gov

Vendor  
Signature X

FEIN# 20-2068048

DATE 10 June 2025

All offers subject to all terms and conditions contained in this solicitation



**ADDITIONAL INFORMATION**

The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Department of Environmental Protection, Environmental Advocate's Office, Rehabilitation Environmental Action Plan to establish an open-end contract for tire collection events in the Eastern and Northern Districts per the attached specifications and terms and conditions. This contract may be awarded to multiple vendors if it is in the best interest of the Agency.

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	3.1.2 Trailer Dropped at Site (per event) Eastern District	120.00000	EA	\$700/EA	\$84,000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**

3.1.2 Trailer Dropped at Site (per event) Eastern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	3.1.4 Trailer Mileage to Disposal Eastern District	10000.00000	MILE	\$4.25/MILE	\$42,500.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**

3.1.4 Trailer Mileage to Disposal Eastern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE			STATE OF WEST VIRGINIA		
601 57TH ST SE			VARIOUS LOCATIONS AS INDICATED BY ORDER		
CHARLESTON	WV		No City	WV	
US			US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	3.1.3 Box Truck Per Truck Per Day Eastern District	25.00000	EA	\$750/EA	\$18,750.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**

3.1.3 Box Truck Per Truck Per Day Eastern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE			STATE OF WEST VIRGINIA		
601 57TH ST SE			VARIOUS LOCATIONS AS INDICATED BY ORDER		
CHARLESTON	WV		No City	WV	
US			US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	3.1.3 & 3.1.4 Labor Per Hour for Employee Eastern District	4000.00000	HOUR	\$39/HOUR	\$156,000.00

Comm Code	Manufacturer	Specification	Model #
76122405			

**Extended Description:**

3.1.3 & 3.1.4 Labor Per Hour for Employee Eastern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE			STATE OF WEST VIRGINIA		
601 57TH ST SE			VARIOUS LOCATIONS AS INDICATED BY ORDER		
CHARLESTON	WV		No City	WV	
US			US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	3.1.6 Trailer Rental Per Trailer Per Month Eastern District	200.00000	MO	\$375/MO	\$75,000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**

3.1.6 Trailer Rental Per Trailer Per Month Eastern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE			STATE OF WEST VIRGINIA		
601 57TH ST SE			VARIOUS LOCATIONS AS INDICATED BY ORDER		
CHARLESTON	WV		No City	WV	
US			US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	3.1.2 Trailer Dropped at Site (per event) Northern District	120.00000	EA	\$675/EA	\$81,000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**

3.1.2 Trailer Dropped at Site (per event) Northern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE			STATE OF WEST VIRGINIA		
601 57TH ST SE			VARIOUS LOCATIONS AS INDICATED BY ORDER		
CHARLESTON	WV		No City	WV	
US			US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	3.1.4 Trailer Mileage to Disposal Northern District	5000.00000	MILE	\$4.25/MILE	\$21,250.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**  
3.1.4 Trailer Mileage to Disposal Northern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE			STATE OF WEST VIRGINIA		
601 57TH ST SE			VARIOUS LOCATIONS AS INDICATED BY ORDER		
CHARLESTON	WV		No City	WV	
US			US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	3.1.3 Box Truck Per Truck Per Day Northern District	29.00000	EA	\$750/EA	\$21,750.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**  
3.1.3 Box Truck Per Truck Per Day Northern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	3.1.3 & 3.1.4 Labor Per Hour for Employee Northern District	4000.00000	HOUR	\$39/HOUR	\$156,000.00

Comm Code	Manufacturer	Specification	Model #
76122405			

**Extended Description:**  
3.1.3 & 3.1.4 Labor Per Hour for Employee Northern District

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION REAP OFFICE  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	3.1.6 Trailer Rental Per Trailer Per Month Northern District	200.00000	MO	\$375/MO	\$75,000.00

Comm Code	Manufacturer	Specification	Model #
78142004			

**Extended Description:**  
3.1.6 Trailer Rental Per Trailer Per Month Northern District

SCHEDULE OF EVENTS		
<u>Line</u>	<u>Event</u>	<u>Event Date</u>

	Document Phase	Document Description	Page 7
DEP2500000019	Final	REAP-Tire Collection Events Eastern & Northern Districts	

**ADDITIONAL TERMS AND CONDITIONS**

See attached document(s) for additional Terms and Conditions

**STATE OF WEST VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATER AND WASTE MANAGEMENT  
601 57<sup>TH</sup> STREET, SE  
CHARLESTON, WEST VIRGINIA 25304**

**SOLID WASTE FACILITY PERMIT  
Chapter 22, Articles 11, 12 and 15**

**APPLICATION NUMBER:** SWF-4024

**ISSUE DATE:** October 28, 2022

**PERMIT NUMBER:** SWF-4024/WV0109533

**EFFECTIVE DATE:** December 1, 2022

**EXPIRATION DATE:** October 27, 2027

**PERMITTEE:**

**CONTACT PERSON:**

**Name:** Tire & Rubber, Inc.

**Name:** John Miller

**Title:** N / A

**Title:** Manager

**Address:** P.O. Box 29  
Weston, WV 26452

**Address:** 710 Grass Run Road  
Weston, WV 26452

**Telephone No:** (304) 269-0091

**Telephone No:** (304) 269-0091

**FACILITY:**

**Name:** Tire & Rubber, Inc.

**Address:** 710 Grass Run Road  
Weston, WV 26452

**Telephone No:** (304) 269-0091

**County:** Lewis

**Location:** Approximately 0.7 miles north of the intersection of County Route 119/19  
(Grass Run Road) and County Route 33/3

**LATITUDE:** 39° 01' 15" N

**LONGITUDE:** 80° 22' 37" W

**FACILITY TYPE:** Construction/Demolition Cell  
Waste Tire Monofill

**PERMITTED AREA:** 285 Acres

**DISPOSAL AREA:**  
122 Acres (C & D Cell and Waste Tire Monofill)

**MAXIMUM ALLOWED TONNAGE:** 9,999 tons/month

**AMOUNT AND TYPE OF BOND:**

**\$70,000 Cash Management Bond**  
\$20,000 5 acre-C/D  
\$24,000 4 acre-Monofill,  
\$6,000 1 acre Tire Processing and,  
\$20,000 Storage of 10,000 whole waste tires

**OPERATING SCHEDULE:**

**Receipt of Waste:**

Weekdays:	Monday through Friday	Hours: 8:00 a.m. - 4:30 p.m.
Weekends:	Saturday	Hours: 8:00 a.m. - 12:00 noon

Equipment maintenance and/or recycling may be conducted from 5:00 a.m. to 9:00 p.m.  
Monday through Saturday.

**Type of Solid Waste Authorized:**

Construction/demolition debris as defined in 33CSR1, and Waste Tires in accordance with W. Va. Code and 33CSR5 as amended.

**Special Requirements:**

If at any time it is not clear that a particular waste is within the authorized waste that can be accepted by this landfill facility, the permittee shall request in writing and must receive written approval from the Director prior to acceptance of such a waste.

**Source of Solid Waste:**

Continental United States.



**THE SOLID WASTE FACILITY IS CONSTRUCTED IN ACCORDANCE WITH:**

**Plans, Specifications, and Reports::**

**Date Received:** October 31, 1994

Prepared By: Walter Gilbertson (WV P.E. No. 5112)  
Route 4, Box 6M  
Weston, WV 26452

Title: PKC Landfill Application

**Date Received:** January 20, 1995

Prepared By: Walter Gilbertson (WV P.E. No. 5112)  
Route 4, Box 6M  
Weston, WV 26452

Title: PKC Landfill Application

**Date Received:** February 2, 2000

Prepared By: Walter Gilbertson (WV P.E. No. 5112)  
Route 4, Box 6M  
Weston, WV 26452

Title: PKC Landfill Permit Renewal Application

**Date Received:** February 21, 2005

Prepared By: Tire & Rubber, Inc.  
4100 Greenbrier, Suite 180  
Stafford, TX 77477

Title: Application for Major Modification to Transfer a Solid Waste Facility Permit

**Date Received:** March 15, 2006

Prepared By: MSES Consultants, Inc.  
609 W. Main Street, Bldg.2  
Clarksburg, WV 26302

Title: TRI Landfill Permit Renewal Application

**Date Received:** October 12, 2011

Prepared By: CENTEC Engineering, PLLC  
3757 Robert C. Byrd Drive  
Beckley, WV 25801

Title: Solid Waste Facility Permit Renewal Application  
Tire and Rubber, Inc. Landfill  
Permit No. SWF-4024/WV0109533

**Date Received:** April 10, 2017

Prepared By: CENTEC Engineering, PLLC  
110 Sunset Drive, Suite 2  
Beckley, WV 25801

Title: Solid Waste Facility Permit Renewal Application  
Tire and Rubber, Inc.  
Permit No. SWF-4024/WV0109533

**Date Received:** April 28, 2022

Prepared By: CENTEC Engineering, PLLC  
3757 Robert C. Byrd Dr.  
Beckley, WV 25801

Title: Solid Waste Facility Permit Renewal Application

**TO WHOM IT MAY CONCERN:**

This is to certify that:

**Tire & Rubber, Inc.  
P.O. Box 29  
Weston, WV 26452**

is hereby granted a solid waste facility permit to construct, operate, maintain, and close a commercial waste tire monofill and a commercial construction/demolition landfill, incorporating best management practices and the activities of disposal, compaction, grading, construction, covering, revegetation, vermin/pest control, drainage and sediment control, access control, leachate management, surface water control, gas management, groundwater monitoring, surface water monitoring, installation of a closure cap, and post-closure site monitoring as indicated in the attached permit documents.

This permit is subject to the following terms and conditions: The information submitted on and with the Solid Waste Facility Application SWF-4024 that was submitted October 31, 1994, and additional information submitted January 20, 1995; PKC Landfill Permit Renewal Application submitted February 2, 2000; Application for Major Modification to Transfer a Solid Waste Facility Permit submitted February 21, 2005; TRI Landfill Permit Renewal Application submitted March 15, 2006; Solid Waste Facility Permit Renewal Application submitted October 12, 2011; Solid Waste Facility Permit Renewal Application submitted April 10, 2017; and Solid Waste Facility Permit Renewal Application submitted April 28, 2022, and any other documents submitted which are not herein specifically mentioned, are all hereby made terms and conditions of this permit as all such permit application information was set forth herein, and with other conditions set forth in Sections I, II, III, IV, V, VI, VII, and VIII of this document. To the extent the permit application information conflicts with the provisions of this document, the provisions of this document shall control.

Failure to comply with the terms and conditions of this permit shall constitute grounds for the enforcement procedures set forth in W.Va. Code, Chapter 22, Articles 11, 12, and 15, and any rules promulgated thereunder.

## **I. PERMIT CONDITIONS**

### **A. Responsibilities**

#### **1. Permit Renewal**

Six (6) months prior to the expiration date of this permit, the permittee shall have requested, completed, and submitted an application to renew this permit for continued operation and maintenance of the activities and duties specified herein.

#### **2. Requirement to Permanently Close**

At least one hundred twenty (120) days prior to closing the facility the permittee shall have requested, completed, and submitted an application to close the facility.

#### **3. Requirement to Comply**

Construction, operations, maintenance, and other activities shall be performed in accordance with W.Va. Code, Chapter 22, Articles 11, 12, and 15 and any rules promulgated thereunder, the approved plans and specifications, this permit, and any attached instructions, changes, amendments, or modifications to this permit.

#### **4. Civil and Criminal Liability**

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Nothing in this permit shall be construed to relieve the permittee from compliance with any other applicable federal, state, county or local laws, rules, or ordinances.

#### **5. Right of Inspection**

The Director (Director) of the Department of Environmental Protection (Department) or his authorized representative(s) shall have the right to enter the site and inspect any conditions or operations occurring at the site at any time. The Director or his authorized representative(s) may enter onto the site to take and analyze samples of waste, soil, air, or water, and may, upon issuance of an order, require the permittee to take and analyze samples of such waste, soil, air, or water. Employees or agents of the Department shall be given access to all records relating to the generation, transportation, storage, treatment, or disposal of solid waste. The Director or his authorized representative(s) shall be furnished with copies of all such records or given the records for the purpose of making copies.

#### **6. Permit Modification and Reopener Clause**

- a. This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of W.Va. Code Chapter 22, Article 15, 12, and/or 11 and any rules promulgated thereunder. An application for any modification of this permit must be submitted at least ninety (90) days prior to the proposed modification.

- b. If federal and/or state laws or rules governing municipal solid waste landfills are amended during the life of this permit, the Secretary may modify the permit and require the permittee to submit an updated application to comply with the amended federal and/or state laws or rules. Only conditions subject to modification are reopened.

7. Availability of Reports

Except for data determined by the Department to be confidential in accordance with the provisions of W.Va. Code, Chapter 22, Article 11, 12, and 15, and Chapter 29B, Article 1, all reports prepared in accordance with the terms of the permit shall be available for public inspection at the Division of Water and Waste Management. Influent and effluent data shall not be considered confidential. Misrepresentation of any material fact in any such report may result in the imposition of penalties as provided by W.Va. Code, Chapter 22, Articles 11, 12, and 15.

8. Implementation

All construction, installation of appurtenances, site renovations or improvements, and closure related activities contained in this permit must be completed within the time frames specified in this permit unless approved in writing.

9. Inspection

Prior to any construction, installation of appurtenances, site renovation or improvement, or closure related activity, a written notification must be made to the Division of Water and Waste Management of initiation of such activities. Upon completion of any construction, installation of appurtenances, site renovation or improvement, or closure related activity, the permittee shall within ten (10) days make a written request to the Division of Water and Waste Management for inspection of all such activities. The permittee shall provide timetables for all construction, installation of appurtenances, site renovations or improvements, and closure related activities to the Division of Water and Waste Management in order to provide for adequate inspections of such activities.

10. Water Pollution

Any activities covered under this permit shall not lead to pollution of the surface waters or ground waters of the state. This facility shall not violate water quality standards with any discharge into a receiving stream in accordance with 47CSR2.

11. Transfer

This permit is non-transferable unless such transfer is approved according to 33CSR1 promulgated under W.Va. Code, Chapter 22, Article 15. The Director may require modification to this permit or an application for a new permit under the circumstances of the transfer.

12. Notification Procedures

- a. At least one hundred twenty (120) days prior to closing the facility, the permittee shall notify the Director in writing of the intent to close the facility and the expected date of closure. Prior to this date, the permittee shall notify the county or regional solid waste authority, the county commission, the West Virginia Solid Waste Management Board, and all users of the facility of the intent to close, so that alternative disposal options can be arranged.
- b. Signs shall be posted at all points of access to the facility at least thirty (30) days prior to closure indicating the date of closure and alternative disposal facilities.
- c. Notice of upcoming closure shall be advertised in accordance with 33CSR1 Paragraph 6.1.b.3..

B. Management Requirements

1. Facility Operation

- a. The permittee shall at all times maintain in good working order and efficiently operate all control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit, W.Va. Code, Chapter 22, Articles 15, 11, and 12, and all rules promulgated thereunder.
- b. Schedule and maximum hours of operation

- (1) Receipt of waste: Monday through Friday: 8:00 a.m. to 4:30 p.m.; Saturday: 8:00 a.m. to 12:00 noon
- (2) Facility maintenance, construction, recycling, and remedial work: Monday through Friday: 5:00 a.m. to 9:00 p.m.; Saturday: 5:00 a.m. to 9:00 p.m.

Equipment maintenance and / or recycling processing may be conducted outside normal operational hours, contingent on the permittee preventing and eliminating conditions that are harmful to the environment or public health or that create safety hazards, odors, dust, noise, unsightliness, and other public nuisances.

Routine maintenance and / or recycling operations outside of the normal operations require the development and implementation of a Nuisance Control Plan. The plan must provide, at a minimum, for the routine assessment and mitigation of operational activities that create public health safety hazards, odors, dust, noise, unsightliness, and other public nuisances. The plan shall be available for review by agency personnel.

- (3) NOTE: Emergency maintenance and/or repairs are permissible beyond the scheduled hours of operation of the landfill. The permittee must notify the Division of Water and Waste Management and keep accurate records at the facility of the time, date, and nature of emergency maintenance and/or repairs for review by an authorized representative of the Director. Occasional extension of scheduled hours of operation or weekends to specifically accommodate special projects such as fall and/or spring clean-up activities will require prior written approval.
- c. The permittee shall keep a daily log on file, for inspection at the facility, of each load of waste being disposed of in the landfill. This information must be kept at the landfill facility for a period of not less than two (2) years. Within two (2) weeks after the end of each calendar month, a report shall be filed with the Director stating the type, amount, and source of all shipments of waste for that month. A copy must also be submitted to the Solid Waste Management Board, the Public Service Commission of West Virginia (PSC), and applicable county or regional solid waste authority.
- d. Unless otherwise approved by the Director in writing, the permittee shall place final cover in accordance with 33CSR1 Subparagraph 6.1.e.1.C. and 33CSR5 within six (6) months after disposal in the final lift ceases or as soon thereafter as weather permits.
- e. The permittee shall cease receiving solid waste in the areas designated for closure as provided by the W.Va. Code, Chapter 22, Article 15, Section 17, as amended, and initiate the closure plan in accordance with the permit, W.Va. Code, and 33CSR1.
- f. The permittee shall complete seeding, fertilizing, and mulching of the finished surface of the final cover within ninety (90) days after placement of the final cover system. Unless otherwise approved by the Director in writing, seed mixture and application rates must be in accordance with 33CSR1 Subdivision 4.5.f.
- g. Waste Tire Monofill / Tire Processing Requirements
- (1) Waste tires may be shredded, baled, compressed, or compacted to optimize available disposal airspace and to improve the efficiency of waste tire disposal operation.
- (2) Whole waste tires may be processed into various components and repurposed, including, but not limited to, crumb rubber, recovered black carbon, steel, mulch, sidewalls and other recycled rubber products. Such products and by-products of waste tire processing may be sold, donated, or otherwise extracted from the disposal stream. The tonnage of extracted waste tire products/by-products accepted into the facility as whole waste tires may be subtracted from the facility's tonnage limit, as well as the

disposal tonnage assessment fees. Pre-processed waste tires accepted into the facility may not be subtracted from the facility's tonnage limit or from the disposal tonnage fees.

(3) Emergency Response Plan

The permittee shall develop, implement, and maintain a notification procedure to summon emergency assistance from the local police departments, fire departments, the West Virginia Department of Environmental Protection's Homeland Security and Emergency Response group and state or local emergency response teams. This procedure must be posted at the facility's office in a conspicuous location and at the main entrance gate visible and legible to the public. The plan shall be updated at least annually or whenever a change to emergency contact information is necessary.

(4) Fire Plan

The permittee shall develop, implement, and maintain a written fire plan with a description of the procedures to be implemented, detailed map depicting location of existing and/or proposed fire hydrants, water supply lines, fire extinguishers or fire ponds if no fire hydrants are to be included in the facility operation or activity and any other proposed fire control equipment. The fire plan must be designed to effectively control a worst case scenario tire fire which could occur at the facility. The plan shall be updated at least annually. A copy of the plan shall be proved to West Virginia Department of Environmental Protection's Homeland Security and Emergency Response group.

(5) No person shall engage in the open burning of waste tires.

(6) Whole waste tires must be cut into at least four (4) near equal portions, or split into at least two (2) near equal portions, or shredded or chipped prior to placement in a monofill.

(7) All miscellaneous solid waste materials generated as a result of operations must be properly disposed at an approved solid waste facility within one week after being received and/or generated at the facility.

(8) A minimum 50 foot wide zone around each waste tire storage pile shall be maintained free of all debris and vegetation at all times. The facility shall not exceed a maximum of 18 piles of tires or tire derived material.

(9) Waste tire and tire derived material storage piles must have a minimum fire lane/fire break spacing of fifty (50) feet between piles at the base and fifty



(50) feet from buildings or other structures at the base. Fire lanes/fire breaks must be maintained free of any obstructions at all times so that emergency fire fighting equipment will always have access in the event of an incident.

- (10) A buffer zone of at least fifty (50) feet width shall be provided between the perimeter fence and any storage piles. The buffer zone must be kept clear of weeds, trees, vegetation, debris or other materials that may restrict access to all portions of the facility by emergency fire fighting equipment.
- (11) Waste Storage Piles shall be covered by plastic sheets or other impermeable barriers, other than soil, to prevent the accumulation of precipitation in whole tires.
- (12) Any chemical treatments to eliminate harborage or breeding must be approved by the West Virginia Department of Agriculture.
- (13) The permittee shall confine windblown material within the operational area and control dust and noise.
- (14) The permittee must install, operate and maintain surface water diversion ditches around the operational areas.

h. Construction and Demolition (C&D) Landfill Requirements

- (1) The permittee shall apply a minimum of six (6) inches of compacted soil cover over all construction/demolition waste a minimum of once per week, or the permittee shall apply a minimum of six (6) inches of compacted soil cover on top of each six (6) foot vertical height of waste material disposed, whichever comes first. Alternate cover material may be used consisting of tire derived aggregate (TDA), approximately 6" to 12" chips, produced by a primary shredder, or another alternative cover material that is requested by the permittee and approved by the Director in writing. An intermediate cover shall be placed over all areas that have not been in use or will not be used for more than thirty (30) days. Disturbed areas that may sit idle for more than sixty (60) days must be temporarily revegetated. Areas that will not or have not been used for one (1) year, in addition to final soil cover, shall be graded for erosion prevention and revegetated.
- (2) The following materials are prohibited in the landfill: putrescible wastes, household wastes, automobile shredder fluff, industrial wastes, sludge wastes, liquid paint, including lead-based paint or products coated with lead-based paint, lacquers, solvents, adhesives, cements, sealants, pesticides, aerosols, resin containers, brake fluid, lubricating oil and oil filters, any automotive fluids or fuels, railroad ties, pressure treated wood and engineered wood products, metal wastes (such as piping, wiring appliances,

and “white goods”), electrical wastes (such as batteries, mercury-containing switches, ballasts, transformers and capacitors, fluorescent tubes, and computer equipment) carpet and other synthetic flooring material.

i. Solid Waste Recycling Requirements

- (1) The permittee may only recycle solid waste to which land disposal and / or biological, chemical, or thermal transformation has not previously occurred.
- (2) The permittee shall provide rapidly growing trees, shrubbery, fencing, berms or other appropriate means at the facility to provide a wind break, screening all recycling operations from the surrounding area, and to function as a barrier to discourage unauthorized access.
- (3) The permittee shall provide and maintain adequate shelter and sanitary facilities for all personnel.
- (4) The permittee shall operate and maintain adequate drainage systems to prevent freestanding storm water.
- (5) All recycling operations shall be conducted within enclosed structure(s). Storage of recyclable materials outside of the enclosed structure(s) must only be materials in bundles, bins or containers, or materials prepared for transportation.
- (6) The permittee shall not receive or store hazardous waste material at a recycling facility.
- (8) No recyclable material may be stored for more than sixty (60) days without written approval by the Secretary.

2. Noncompliance Notification

If, for any reason, the permittee does not comply with or will be unable to comply with any terms and conditions of this permit or rules or regulations specified in this permit, the permittee shall provide the Director with the following information, in writing, within five (5) days of becoming aware of such conditions:

- a. A description of the noncompliance event and its cause
- b. The period of noncompliance, including exact dates and times, and the anticipated time period noncompliance is expected to continue or will occur in the future
- c. Steps being taken to reduce or eliminate noncompliance and to prevent recurrence of the non-complying event.

3. Solid Waste Limitations

Only solid waste types specifically designated in this permit shall be accepted for disposal at the facility.

4. Operator Certification

- a. Qualifications: Operation of every commercial solid waste disposal facility (landfill) must be conducted under the direction of an individual who has authority and knowledge to make and implement decisions regarding operating conditions at the facility (called in this subsection an "individual in responsible charge") and who has attended and successfully completed a course of instruction in solid waste management procedures and practices. Such courses of instruction must be approved in writing by the Director.
- b. Applicability: Individuals in responsible charge of existing or new landfills and new individuals in responsible charge of existing landfills must attend and successfully complete an approved course of instruction in accordance with 33CSR1 Subdivision 4.3.b..
- c. Instruction Course Criteria: An approved course of instruction must include, at a minimum, the role of sanitary landfills in integrated solid waste management, basics of site selection, complying with design requirements, waste acceptance and screening, leachate management, landfill gas management, landfill operational techniques, environmental/operational and permit compliance inspections, field exercise and homework assignment, landfill economics, closure and post-closure care, state/federal regulations, permitting requirements and a written examination sanctioned by an internationally recognized certification organization or an accredited college or university program.
- d. Certificate Requirement: Successful completion of an approved course of instruction by an individual in responsible charge must include passing the written examination and the award of a certificate as a certified manager.
- e. The individual must demonstrate that he or she has remained current in the field of solid waste management by attending at least thirty (30) contact hours of continuing education every three years and providing proof thereof upon request.

C. Monitoring and Reporting Requirements

The permittee shall submit all reports to Environmental Enforcement and to the Director of the Division of Water and Waste Management.

1. Groundwater, Leachate, and Surface Water Monitoring

The permittee shall monitor all groundwater, leachate influent, and surface water monitoring points per Part II of this permit for the duration of the permit, including the

closure and the post-closure periods.

Groundwater sampling frequencies shall be based on the calendar year and must be no less than one hundred twenty (120) days between sampling events unless specified more frequently in Part II. Surface Water and Groundwater Monitoring Reports shall be submitted within twenty-five (25) days of reporting period unless specified more frequently in Part II.

The permittee shall be responsible for any and all environmental degradation attributable to operation and maintenance of the solid waste facility.

2. Landfill Gas Monitoring

The permittee shall monitor the site for the presence of explosive landfill decomposition gasses in facility structures and at facility property boundaries. Methane gas must not exceed twenty-five (25) percent of the lower explosive limit (1.25% by volume) in on-site structures or the lower explosive limit (5% by volume subsurface) at the site boundary. If these levels are exceeded, the permittee shall follow the notification procedures specified in 33CSR1 Subdivision 4.10.c..

3. Post-Closure Monitoring

Monitoring of the site for vandalism, illegal dumping, settling, cracking or erosion of cover materials, leachate releases, and other deleterious conditions shall be performed monthly for the duration of the permit and the post-closure period. Significant deterioration shall be reported to the Division of Water and Waste Management in writing along with steps describing corrective action.

4. Quarterly Waste Tire Reports

Waste tire reports shall be submitted to the Secretary prior to the fifteenth day of the next quarterly reporting period. Waste tire reports may be incorporated in the monthly tonnage report as applicable. The report shall include:

- (1) Date, quantity and origin of waste tires and tire derived material received at the facility;
- (2) Quantity/tonnage of waste tires and tire derived material processed at the facility;
- (3) Quantity/tonnage of waste tires and tire derived material stored at the facility; and
- (4) Name, address, telephone number and certificated motor carrier identification numbers of the waste tire transporters who transport waste tires and tire derived material transported to and from the facility, including the quantity/tonnage of waste tires and tire derived material so transported.
- (5) A description of any fires, vector or environmental problems, other conditions, or changes in the facility's operational procedures. In regard to fire, vector or

environmental problems which have occurred, describe steps taken to prevent a recurrence.

6. Background Investigation Annual Updates

The permittee shall update the facility's background investigation disclosure statement annually on the anniversary of the permit issuance. It must contain all changes including, but not limited to, deletions in officers, directors, managers, owners, companies, etc. that have occurred since the submittal of the previous application. If there have been any additions to the officers, directors, managers, shareholders owning five percent (5%) or more of capital stock, beneficial or otherwise; general or limited partners; any person performing a function similar to the Secretary; United States parent corporation, including the ultimate parent corporation; agents; or associates of the permittee, a background investigation disclosure statement application must be filed with the Department including proper filing fees and fingerprint cards. Annual updates must be notarized. If there are no changes to facility personnel / corporate structure that would require a revision to the background investigation disclosure statement, the permittee shall certify as such.

D. Drainage and Sediment Control Plan

The permittee shall construct and maintain effective drainage and sediment control at the solid waste facility in accordance with 33CSR1 Subdivision 4.5.b. and as approved in the permit application documents.

E. Leachate Management

1. Leachate shall be collected and contained on the site property in a tank storage area with secondary containment or surface impoundment / pond which has been constructed in accordance with 33CSR1 Section 4 to prevent illicit discharges into Waters of the State (including groundwater).
2. Leachate shall be routed from the leachate storage facility to the leachate treatment and/or disposal system as specified in Part II of this permit. Leachate control and treatment must be maintained for the duration of the permit and the post-closure period.
3. Leachate shall be treated and/or disposed per Part II Section C of this permit.
4. Upon completion of construction or subsequent modifications of the leachate storage facility, and prior to the collection of leachate, the permittee shall provide the Division a certificate from a Professional Engineer (PE) licensed to practice in the State of West Virginia, under seal that the leachate tank was constructed as approved in the permit application. The list of certifications that are required are listed on the attached Certification of Construction Log.

F. Vector/Pest Control Plan

The facility shall be operated in a manner that minimizes disease vector harborage and prevents unsightliness and odors. Rodents and vectors shall be controlled by the application of suitable pesticide prior to placement of final cover materials. All pesticide use will be properly monitored and applied in conformance with Department of Agriculture guidelines.

G. Quality Assurance and Quality Control (Q.A./Q.C.) Plan

The permittee must implement the general quality assurance and quality control plan provided in the permit application to assure conformity of the solid waste facility design and construction specifications described in the permit application and in the Solid Waste Management Rule (33CSR1).

H. Certification

Upon completion of each phase of construction and prior to deposition of waste, the permittee shall provide the Division of Water and Waste Management a completed Certification of Construction form from a registered professional engineer (PE) licensed to practice in the State of West Virginia, under seal, that each element or stage was constructed as approved in the permit. The list of certifications that are required are listed on the attached Certification of Construction Log.

## **II. CLOSURE OF DISPOSAL AREAS**

A. Deed Notation

Upon closure of the landfill the owner or operator must record a deed notation with the county clerk's office that shall be available with the deed of the property and will notify any potential purchaser that:

1. The land has been used as a landfill
2. Its use is restricted to ensure post-closure care including any use that would interfere with maintaining the integrity and effectiveness of the final cover and maintaining the system to control the formation and release of leachate and explosive gases into the environment.
3. The deed shall include at a minimum:
  - a. A survey plat indicating the location and dimension of the solid waste facility
  - b. A record of waste, including type, location, and quantity of waste disposed at the site

- c. The disposal location of asbestos and any other waste specified by the Director

B. Land Disturbance

No person may engage in excavating, building, drilling, mining, use of the facility for agricultural purposes, or conduct any activity which may adversely affect the final cover, leachate collection and treatment system, gas venting or recovery system, or any other structures required by this permit, on or in the premises, without prior written authorization of the Director.

C. Restricted Access

Within ten (10) days after ceasing to accept waste, the permittee shall restrict all access by use of gates, fencing, or other appropriate means to ensure against further use of the facility. If final use allows access, such access must be restricted until closure has been completed and approved by the Director.

D. Cover Material – Construction/Demolition Cell

All closure requirements described in Section II of this permit will be applicable to the disposal areas. The entire surface of the disposal areas must be covered in accordance with the approved application and in accordance with the following requirements unless otherwise approved by the Director.

1. A uniform layer of soil that is at least eighteen (18) inches thick {six (6) inches of daily cover and twelve (12) inches of intermediate cover} shall be placed on the refuse mass.
2. A one (1) foot layer of a material with a high hydraulic conductivity, or a geocomposite drainage layer having a permeability of at least  $1 \times 10^{-3}$  centimeters per second (cm/sec), shall be placed directly on the intermediate cover to facilitate landfill gas control.
3. A cap consisting of a uniform and compacted one (1) foot layer of clay that is no more permeable than  $1 \times 10^{-6}$  centimeters per second (cm/sec) shall be placed and graded over the entire surface of each final lift in six (6) inch lifts. A synthetic liner, that is no more permeable than  $1 \times 10^{-7}$  centimeters per second (cm/sec), may be used in lieu of one (1) foot of clay.
4. A one (1) foot drainage layer or a geocomposite drainage layer that is more permeable than  $1 \times 10^{-3}$  centimeters per second (cm/sec), capable of transmitting flow and preventing erosion, shall be placed over the cap.
5. A uniform and machine dressed layer of soil that is at least two (2) feet thick and capable of supporting vegetation shall be placed over the drainage layer. The erosion layer portion must consist of a minimum six (6) inches of earthen material that is capable of sustaining native plant growth.

6. The permittee shall place final cover within six (6) months after disposal in the final lift ceases or as soon thereafter as weather permits.
7. Surface water must be diverted around all areas used for waste disposal to limit the potential for erosion of cover soils and increased infiltration.
8. The grade of the final surface of the disposal area may not be less than three (3) percent and not more than twenty-five (25) percent. Final grades of up to thirty-three (33) percent may be approved by the Director if terraces are incorporated every twenty (20) feet of the vertical distance with adequate runoff control.

**Approved Alternative Cover Systems**

N/A – No alternative liners have been approved

**D. Cover Material – Waste Tire Monofill**

All closure requirements described in Section II of this permit will be applicable to the disposal areas. The entire surface of the disposal areas must be covered in accordance with the approved application and in accordance with the following requirements unless otherwise approved by the Director.

1. The permittee shall install a minimum of six (6) inches of soil cover over the waste.
2. The permittee shall install a filter cloth over the soil cover.
3. The permittee shall install and compact an intermediate cover soil layer that is at least one (1) foot thick over the filter cloth.
4. The permittee shall install a cap-consisting of a uniform and compacted, minimum one (1) foot layer of soil over the intermediate cover. The cap shall be revegetated (amendments, mulch, seed) as applicable in accordance with 33CSR1 Subdivision 4.5.f..
5. The permittee shall place final cover within six (6) months after disposal in the final lift ceases or as soon thereafter as weather permits.
6. Surface water must be diverted around all areas used for waste disposal to limit the potential for erosion of cover soils and increased infiltration.
7. The grade of the final surface of the disposal area may not be less than three (3) percent and not more than twenty-five (25) percent. Final grades of up to thirty-three (33) percent may be approved by the Director if terraces are incorporated every twenty (20) feet of the vertical distance with adequate runoff control.



### **Approved Alternative Cover Systems**

N/A – No alternative liners have been approved

#### **E. Revegetation Plan**

Within ninety (90) days after the final cover is placed, the permittee shall complete seeding, fertilizing, and mulching of the finished surface. The seeding mixture and application rates must be performed in compliance with the permit application and the Solid Waste Management Rule (33CSR1). Adequate revegetation shall be established on a temporary or permanent basis to minimize erosion.

#### **F. Final Use at Landfills**

The permittee shall prohibit the following activities at the closed landfill unless specifically approved by the Director in writing:

1. Use of the facility for agricultural purposes
2. Establishment or construction of any buildings
3. Excavation of the final cover or any waste materials

#### **G. Post-Closure Care**

The permittee shall continue post-closure care for up to thirty (30) years after final closure of areas, unless extended by the Director, and shall consist of the following:

1. **Repair of Settlement:** Any settling of solid waste which occurs up to thirty (30) years of the date of final closure that causes ponding of waters in areas of solid waste deposits shall be repaired promptly. Such repairs shall include any necessary regrading, additions of fill material, and revegetation of settled areas.
2. **Repair of Cover Material:** Any cracking or erosion of cover material which occurs and may cause water to enter solid waste deposits shall be repaired immediately. Such repairs shall include any necessary regrading, additions of cover material, and revegetation to eliminate such cracks or eroded areas.
3. **Site Monitoring:** Further disposal of solid waste at a closed solid waste facility is prohibited. The closed solid waste facility shall be monitored by the permittee at a minimum frequency of once each month during the post-closure period to assure that solid waste deposits and vandalism do not occur at the closed solid waste facility. Any solid waste deposited at the closed solid waste facility during the post-closure period shall be promptly removed and disposed at an approved solid waste facility. Evidence of disease vectors shall be treated promptly.

#### H. Termination of Permit

The approved final closure dates (i.e. for the purposes of post closure care) for the solid waste management areas covered by this permit are:

**TRI Waste Tire Monofill** – \* N/A (facility is still active)

**TRI Construction and Demolition Landfill** - \* N/A (facility is still active)

\* Estimated end of post closure care.

The length of post-closure care may be decreased if the permittee demonstrates a reduced period is sufficient to protect human health and the environment or increased if the agency determines that a lengthened period is necessary to protect human health and the environment.

After post-closure requirements have been met, the permittee may submit a major permit modification application (or a formal request for termination / revocation of the permit, as applicable) for removal of a landfill from the permit that has completed post closure care. At a minimum, the request shall include:

1. A notification verifying that post-closure care has been completed in accordance with this permit and 33 CSR 1 signed by an independent registered professional engineer.
2. A post closure care inspection report from Environmental Enforcement that indicates that no further remedial action or other activity is necessary to continue compliance with the Solid Management Act and the facility is not causing any adverse effects on the environment, and/or causing a nuisance.
3. A groundwater evaluation report statistically comparing upgradient and downgradient concentrations, during post-closure care, of any Constituent of Concern (COC) developed by the agency or the permittee based on the materials managed in each respective solid waste management area(s) and all parameters listed in Section A of the permit.
4. A one time evaluation shall also be performed for all parameters listed in 33 CSR 1 Appendix I. For any parameter in downgradient monitoring wells detected statistically above the value in corresponding upgradient monitoring wells (or the previous established intrawell background, if available) that can be attributed to impacts from the management of solid waste, a plan of action shall be submitted to investigate and mitigate / remediate (as necessary) prior to the agency's decision on removal of the solid waste management unit from the permit. The plan of action shall also include evaluation of all parameters in 33 CSR 1 Appendix II that have a reasonable expectation of being present based on the COC list of materials managed.
5. A long-term stewardship plan to prevent unacceptable exposure to solid waste at the

post-closure care unit.

6. A copy of the deed notation required by 33 CSR 1 - 6.2.f.
7. A plan to abandon groundwater monitoring wells on site compliant with 47CSR60 Section 19.

### **III. DESIGN OF THE CONSTRUCTION/DEMOLITION CELL AREA**

- A. The permittee shall construct and install a subbase portion of the liner consisting of a cleared and grubbed natural ground surface capable of supporting the entire liner system as required by 33CSR1 Paragraph 5.4.b.2.
- B. The permittee shall construct and install a two (2) foot thick compacted soil liner compacted in six (6) inch lifts and be no more permeable than  $1 \times 10^{-6}$  centimeter per second (cm/sec) based on laboratory and field testing. The clay liner shall be free of particles greater than two (2) inches in dimension and placed without damaging the subgrade. The liner must have a slope of at least two (2) percent to facilitate the drainage of leachate across the liner surface as required by 33CSR1 Paragraph 5.4.b.3..
- C. The permittee shall construct, monitor and operate a leachate collection and removal system above the compacted clay liner. The leachate collection zone and protective cover zone shall be at least eighteen (18) inches thick and no less permeable than  $1 \times 10^{-3}$  centimeter per second (cm/sec) based on laboratory and field testing. The minimum diameter of the perforated pipe shall be four (4) inches with a wall thickness of schedule 40 or greater, and must not exceed one hundred (100) feet on center between the pipes as required by 33CSR1 Paragraph 5.4.b.4..
- D. Upon completion of each phase of construction and prior to deposition of waste, the permittee shall provide the Division of Water and Waste Management a completed Certification of Construction form from a registered professional engineer (PE) licensed to practice in the State of West Virginia, under seal, that each element or stage was constructed as approved in the permit. The list of certifications that are required are listed on the attached Certification of Construction Log.

#### **Approved Alternative Liner Systems**

N/A – No alternative liners have been approved

### **IV. DESIGN OF THE WASTE TIRE MONOFILL**

- A. The permittee shall construct and install a subbase portion of the liner consisting of a cleared and grubbed natural ground surface capable of supporting the entire liner system as required by 33CSR5 Paragraph 3.6.a.2..

- B. The permittee shall construct and install a one (1) foot thick compacted soil liner compacted in six (6) inch lifts and be no more permeable than  $1 \times 10^{-6}$  centimeter per second (cm/sec) based on laboratory and field testing. The clay liner shall be free of particles greater than two (2) inches in dimension and placed without damaging the subgrade. The liner must have a slope of at least two (2) percent to facilitate the drainage of leachate across the liner surface as required by 33CSR5 Paragraph 3.6.a.3..
- C. For the waste tire monofill cell, the permittee shall construct, monitor and operate a leachate collection and removal system above the compacted clay liner. The leachate collection zone and protective cover zone shall be at least nine (9) inches thick and no less permeable than  $1 \times 10^{-3}$  centimeter per second (cm/sec) based on laboratory and field testing. The minimum diameter of the perforated pipe shall be four (4) inches with a wall thickness of schedule 40 or greater and must not exceed one hundred (100) feet on center between the pipes as required by 33CSR5 Section 3.6.a.4..
- D. Upon completion of each phase of construction and prior to deposition of waste, the permittee shall provide the Division of Water and Waste Management a completed Certification of Construction form from a registered professional engineer (PE) licensed to practice in the State of West Virginia, under seal, that each element or stage was constructed as approved in the permit. The list of certifications that are required are listed on the attached Certification of Construction Log.

#### **Approved Alternative Liner Systems**

N/A – No alternative liners have been approved

### **V. BONDING**

The permittee must meet the financial assurance and bonding requirements of 33CSR1 Subsection 3.13. through an escrow account established with the Public Service Commission of West Virginia (PSC). This escrow account will be a joint controlled account between Tire & Rubber, Inc. or its successors in interest, the PSC, the Department, and the escrow agent. In accordance with 33CSR1 Subdivisions 3.13.n., 3.13.o., and 3.13.p., this escrow account shall assure the Department that funds necessary to meet the cost of closure, post-closure care and corrective measures for known releases shall be available for such purposes and shall fulfill the statutory requirements for financial assurance and bonding.

Upon approval by the Department and PSC, and to the extent applicable, this account may be modified to reflect either a reduction or increase in contributions to reflect changes to the closure plan, or to reflect an increase should a solid waste landfill's conditions warrant an increase in the maximum cost of closure at any time during the active life.

The financial assurance/bond must provide for continuous liability for present operations of the facility for the full term of the permit and for at least thirty (30) years after final closure of the permitted site. Provided, That any further time period which is necessary to achieve compliance with the requirements in the closure plan of the permit shall be considered an additional liability period.

If, for any reason, a permittee fails to maintain proper financial assurance or bonding, the Secretary shall issue a cease and desist order and revoke the permit and the permittee shall become fully liable for the amount of the bond.

## **VI. BONDING (Current)**

- A. The permittee has submitted a Cash Management Bond for the facility in accordance with 33CSR1 Subsection 3.13. in the amount of \$70,000.00. All financial assurance performed after June 2, 1996 must meet the requirements of 33CSR1 Paragraph 3.13.a.2..
- B. The bond was submitted under the requirements of the Solid Waste Management Rule on a form prepared and furnished by the Director, made payable to the State of West Virginia, and must provide for continuous liability from the present operations at the facility for the full term of the permit and for up to thirty (30) years after final closure of the permitted site. If any further time period is necessary to achieve compliance with the requirements in the closure plan of the permit, it shall be considered an additional liability period.
- C. Bond will be placed with the Treasurer of the State of West Virginia in the name of the State in trust for the purpose of which the deposit is made when the permit is issued.

## **VII. WASTE SCREENING REQUIREMENTS**

At a minimum the following procedures shall be established at the solid waste facility to protect human health, safety, and the environment in the event that a potentially dangerous material is encountered or received. The hazardous waste exclusion plan submitted as part of the permit application may be included as part of this requirement. The permittee shall, within sixty (60) days after the effective date of this permit, submit to the Director for approval of a compliance schedule to implement the waste screening requirements.

### **A. Waste Screening Area Design and Location**

The waste screening area shall be located i) in an area visible from the weigh scales, or ii) on the composite lined area adjacent to the working face, or iii) in an enclosed building equipped with proper ventilation and lighting. Prior to construction, the location chosen by the permittee for the waste screening area must be approved by the Director. The waste screening area (pad) must be large enough to accommodate rear and front load trucks and 25 cu. yd. roll-off containers as well as pick-ups and small dump trucks. The minimum

design criteria for the overall waste screening area shall include:

1. A six (6) inch reinforced impervious pad (waste screening area) shall be installed.
2. An eight (8) foot high chain link perimeter fence around the pad with a lockable gate at the entrance shall be installed.
3. A six (6) inch commercial grade drain pipe with a 24" x 24" drop inlet in the pad flowing to a five hundred (500) gallon minimum capacity holding tank shall be installed; artificial lighting and a water system with a high-pressure nozzle shall be provided for the cleaning pad.
4. All waste screened on the pad shall be protected from inclement weather (snow, rain, lightning, and wind).
5. Items "2" and "4" are unnecessary if the facility utilizes a waste screening area under roof in an enclosed building with proper ventilation and lighting.
6. Items "1", "2", and "3" are unnecessary if waste is screened on the composite lined area adjacent to the working face.
7. Disease vectors and windblown material shall be controlled at all times.
8. Signs shall be posted around the perimeter of the pad stating "WASTE SCREENING AREA: AUTHORIZED PERSONNEL ONLY" .
9. Detailed plans, specifications, and a location map must be submitted to the Director for approval.

B. Waste Screening Procedures

A sign will be posted at the entrance to the scale which reads in red letters, "WARNING: LOADS SUBJECT TO SCREENING". At a minimum frequency of once per week the scale attendant will randomly choose a waste load to be screened. Additionally, an authorized representative of the Secretary of the Department of Environmental Protection, at the facility, shall choose a waste load to be screened and oversee the waste screening activity.

The scale attendant will direct the driver to the screening area and will advise the site manager, usually by radio, which truck is to be screened. The site manager and two trained waste screeners dressed in personal protective clothing will meet the truck at the screening area. The load will be dumped on the screening area and the site manager will take two initial photographs, one of the trucks showing the hauling company name and one of the dumped loads. In most, but not all cases, a backhoe will be used to spread the load for inspection. The screeners will proceed to inspect the load. The driver will be held on site until the load is inspected and deemed acceptable. If the load is deemed acceptable, it will be pushed to the working face and compacted as usual. The inspection form will be filled out in accordance with the permit and kept with the photographs, on site, for five (5) years.

If prohibited waste is found in the load, it will be photographed in detail showing specific materials in question. The landfill engineer and the West Virginia Department of environmental Protection (Department) will be notified immediately of the findings. All or part of the load will be reloaded as determined by the permittee's landfill engineer and taken to an appropriate facility authorized to accept such waste. When the screening area is cleared of any prohibited waste, the remaining waste will be pushed to the working face and compacted as usual.

C. Inspection Reports

Inspection reports and photographs of all screening activities will be kept on site for five (5) years. Inspection reports shall include: date and time of inspection, hauling company name, driver's name, license number of vehicle, material(s) detected, material generator(s) if known, action taken to manage or return any prohibited waste detected, efforts under-taken if extreme toxicity or hazard is discovered, person(s) contacted from the posting (date and time) if a prohibited waste is detected, and the signature of the site manager or trained landfill employee in responsible charge of the waste screening inspection. Additional record keeping for all prohibited waste removed from the waste screening area shall include manifests, shipping documents, and receipts from the facility where the prohibited waste was properly disposed.

D. Employee Training

No less than two landfill employees (in addition to the landfill manager and site manager) shall be trained in waste screening procedures, which shall include the proper and safe procedures that must take place in the event that a prohibited waste is detected. This training shall also include identification of prohibited waste material and the proper use of personal protective clothing and safety equipment. **Only trained employees may conduct waste screening inspections.** The names of trained employees, including training certificates or certification, shall be submitted to the Solid Waste Management Unit and updated when necessary. A copy of those certifications shall be posted at the facility weigh station.

E. Posting, record keeping, and notification procedures shall include at a minimum:

1. Post the telephone numbers and contact persons (updating quarterly, if necessary) of the WVDEP Division of Water and Waste Management, Solid Waste Management Unit; WVDEP Environmental Enforcement Inspector; WVDEP Emergency Response Number (800-642-3074); State Health Department; and the Local Emergency Management Agency. These postings shall be placed in a conspicuous location at the waste screening area, weigh scale office, and landfill manager's office.
2. Waste screening inspections shall be conducted no less than one vehicle per week and records (inspection reports) shall be kept on file at the landfill office on each

screening inspection. Inspection records shall include: date and time of inspection, hauler's name (company, driver, and license number of vehicle), material(s) detected, material generator(s) if able to identify, action taken to manage or return any prohibited waste detected, efforts undertaken if extreme toxicity or hazard was discovered, person(s) contacted from the posting (date and time) if a prohibited waste was detected, and the signature of the trained landfill employee in responsible charge of the waste screening inspection.

The site manager and two trained waste screeners dressed in personal protective clothing will meet the truck at the screening area. The load will be dumped on the screening area and the site manager will take two initial photographs, one of the trucks showing the hauling company name and one of the dumped load. In most, but not all cases, a backhoe will be used to spread the load for inspection. The screeners will proceed to inspect the load. The driver will be held on site until the load is inspected and deemed acceptable. If the load is deemed acceptable, it will be pushed to the working face and compacted as usual. The inspection form will be filled out in accordance with the permit and kept with the photographs on site for five (5) years.

If prohibited waste is found in the load, it will be photographed in detail showing specific materials in question. The landfill engineer and the West Virginia Department of Environmental Protection (WVDEP) will be notified immediately of the findings. All or part of the load will be reloaded as determined by the permittee's landfill engineer and taken to an appropriate facility authorized to accept such waste. When the screening area is cleared of any prohibited waste, the remaining waste will be pushed to the working face and compacted as usual.

C. Inspection Reports

Inspection reports and photographs of all screening activities will be kept on site for five (5) years. Inspection reports shall include: date and time of inspection, hauling company name, driver name, license number of vehicle, material(s) detected, material generator(s) if known, action taken to manage or return any prohibited waste detected, efforts undertaken if extreme toxicity or hazard is discovered, person(s) contacted from the posting (date and time) if a prohibited waste is detected, and the signature of the site manager or trained landfill employee in responsible charge of the waste screening inspection. Additional record keeping for all prohibited waste removed from the waste screening area shall include manifests, shipping documents and receipts from the facility where the prohibited waste was properly disposed.

D. Employee Training

No less than two landfill employees (in addition to the landfill manager and site manager) shall be trained in waste screening procedures which shall include the proper and safe procedures that must take place in the event that a prohibited waste is detected. This training shall also include identification of prohibited waste material and the proper use of personal protective clothing and safety equipment. **Only trained employees may conduct waste screening inspections.** The names of trained employees, including training certificates or certification, shall be submitted to the Solid Waste Permitting Unit and updated when necessary. A copy of those certifications shall be posted at the facility weigh station.



- E. Posting, record keeping and notification procedures shall include at a minimum:
1. Posting the telephone numbers and contact persons (and updating quarterly, if necessary) of the DEP Division of Water and Waste Management, Solid Waste Permitting Unit and Hazardous Waste Management Section, DEP Environmental Enforcement Inspector, DEP Emergency Response Number (800-642-3074), State Health Department, and Local Emergency Management Agency. These postings shall be placed in a conspicuous location at the waste screening area, weight scale office, and landfill manager's office.
  2. Waste screening inspections shall be conducted no less than one vehicle per week and records (inspection reports) shall be kept on file at the landfill office on each screening inspection. Inspection records shall include: the date and time of inspection, hauler's name (company and driver, license number of vehicle), material(s) detected, material generator(s) if able to identify, action taken to manage or return any prohibited waste detected, efforts undertaken if extreme toxicity or hazard was discovered, person(s) contacted from the posting (date and time) if a prohibited waste was detected, and the signature of the trained landfill employee in responsible charge of the waste screening inspection is always required on the inspection report.

#### **VIII. ADDITIONAL REQUIREMENTS**

1. In accordance with W. Va. Code Chapter 22, Article 15, Section 10.(g), the Certificates of Need, issued on August 29, 1993 and Certificate of Need issued on July 13, 2005 by the WV Public Service Commission to this facility, shall become a part of this permit and all conditions contained in the Certificate of Need are hereby incorporated as conditions of this permit and may be enforced by the Department of Environmental Protection.
2. A construction schedule must be submitted to the Solid Waste Permitting Unit prior to the initiation of any construction at the site.
3. Any blasting shall be conducted in compliance with all applicable rules and regulations under the authority of the WVDEP Office of Explosives and Blasting. In addition to Office of Explosives and Blasting requirements, the permittee must at a minimum:
  - a. Perform the blasting during clear weather and during times when there is minimal traffic;
  - b. Notify adjacent residents and property owners of upcoming blasting operations;
  - c. Initiate or employ a smooth blasting technique by using explosives with low charge concentration. Drilling patterns must be closely spaced with an appropriate blast hole diameter in a square or staggered drilling pattern. Blast hole design must depend on current field conditions;
  - d. Must employ proper delay timing, and use appropriate decking of charges and explosive

powder factors applicable to the rock types being blasted;

- e. Must not blast below maximum approved elevations. The under-drilled few feet of the blast holes must not be loaded with explosives; and
- f. Blasting must not be conducted on Sunday.

**PART II**  
**Permit Number SWF-4024/WV0109533**  
**Leachate and Storm Water Collection and**  
**Treatment Requirements**

After review and consideration of the information submitted on and with the permit renewal application, received April 28, 2022, the permittee **is hereby granted a Water Pollution Control Permit to:**

To operate, and maintain a leachate collection, storage system and treatment system to be consisting of a leachate collection system under the waste, and a 264,810-gallon composite lined pond (Sedimentation Basin No. 1). All units used for the storage and treatment of leachate must be constructed to meet the requirements set forth by the Solid Waste Management Rules and Part I of this permit. The leachate treatment system discharges treated leachate into Sediment Basin No. 2. Monitoring at this internal Outlet is designated as Outlet 101 with approximate Latitude 39°01'11" N and Longitude 80° 23' 19" W.

To operate, and maintain a stormwater management system to be composed of two sedimentation basins, Sedimentation Basin No.1 (0.6887 ac/ft), and Sedimentation Basin No. 2 (16.5 ac/ft) operated in series. Stormwater combines with leachate in Sedimentation Basin No. 2.

To operate and maintain a treatment and disposal system for the direct discharge of treated stormwater and other wastewater (leachate) directly into the Right Fork of Grass Run, approximately 5400 feet from its mouth. This discharge point will be designated Outlet 001 - Latitude 39° 01' 10" N and Longitude 80° 23' 13" W.

These facilities are to serve Tire & Rubber, Inc. (TRI). All leachate will be collected and treated in the leachate treatment system.

**This permit is subject to the following terms and conditions:**

The information submitted on and with the permit renewal application, received April 28, 2022, and the plans and specifications, are all hereby made terms and conditions of this Permit with like effect as if all such permit application information was set forth herein, and with other conditions set forth in Sections A, B, C, D and Appendix A.

The storm water collection, storage, and sedimentation control structures shall be constructed in accordance with the plans and specifications as submitted with approved revisions and further described as follows:

Plans and Specifications:

<b>Date Received:</b>	April 28, 2022
<b>Prepared By:</b>	CENTEC Engineering, PLLC 3757 Robert C. Byrd Drive Beckley, WV 25801
<b>Title:</b>	TRI Landfill Permit Renewal Application
<b>Date Received:</b>	March 30, 2017
<b>Prepared By:</b>	CENTEC Engineering, PLLC 3757 Robert C. Byrd Drive Beckley, WV 25801
<b>Title:</b>	TRI Landfill Permit Renewal Application
<b>Date Received:</b>	October 4, 2011
<b>Prepared By:</b>	CENTEC Engineering, PLLC 110 Sunset Drive, Suite 2 Beckley, WV 25801
<b>Title:</b>	TRI Landfill Permit Renewal Application
<b>Date Received:</b>	March 14, 2006
<b>Prepared By:</b>	MSES Consultants, Inc 609 West Main Street Clarksburg, WV 26301
<b>Title:</b>	TRI Landfill Permit Renewal Application
<b>Date Received:</b>	January 10, 2000
<b>Prepared By:</b>	Walter G. Gilbertson R.R. 4, Box 6M Weston, WV 26452
<b>Title:</b>	PKC Landfill Grass Run Site Lewis County WV

All leachate containment structures must be constructed to meet the requirements set forth in Title 33, Series 1, Subsection 4.8. The Stormwater Sediment Control Structures shall be constructed and maintained in accordance with Title 33, Series 1, Subsection 4.5.

If the conditions contained in this section are different from any other conditions set forth in this permit, the permittee must comply with the more stringent condition.

### A.001 Discharge Limitations and Monitoring Requirements

**During the period beginning December 1, 2022 and lasting through midnight October 27, 2027 the permittee is authorized to discharge from Outlet Number(s) 001 - Discharge from Sediment Basin No. 2 (Stormwater, Other)**

Such discharges shall be limited and monitored by the permittee as specified below:

<b>Discharge Limitations</b>					<b>Monitoring Requirements</b>		
<b>Effluent Characteristic</b>	<b>(Quantity) lbs/day</b>		<b>Other Units (Specify)</b>			<b>Measurement</b>	<b>Sample</b>
	<b>Avg. Monthly</b>	<b>Max. Daily</b>	<b>Avg. Monthly</b>	<b>Max. Daily</b>		<b>Frequency</b>	<b>Type</b>
Flow	N/A	N/A	Monitor Only	Monitor Only	MGD	1/Month	Estimated
Total Suspended Solids	N/A	N/A	49	61	mg/l	1/Month	8 hr. Composite
Chemical Oxygen Demand	N/A	N/A	Monitor Only	Monitor Only	mg/l	1/Quarter	8 hr. Composite
NH3-N	N/A	N/A	4.6	9.3	mg/l	1/Month	8 hr. Composite
Aluminum, Total Recoverable	N/A	N/A	268	750	ug/l	1/Month	8 hr. Composite
Arsenic, Total	N/A	N/A	10	16	ug/l	1/Month	8 hr. Composite
Endosulfan	N/A	N/A	Monitor Only	Monitor Only	ug/l	1/Quarter	8 hr. Composite
Chloride	N/A	N/A	162	424	mg/l	1/Month	8 hr. Composite
Copper, Total Recoverable	N/A	N/A	Monitor Only	Monitor Only	ug/l	1/Quarter	8 hr. Composite
Diethyl Phthalate	N/A	N/A	Monitor Only	Monitor Only	ug/l	1/Quarter	8 hr. Composite
Hexavalent Chromium	N/A	N/A	Monitor Only	Monitor Only	ug/l	1/Quarter	Grab
Iron, Total Recoverable	N/A	N/A	0.7	2.3	mg/l	1/Month	8 hr. Composite
Pentachlorophenol	N/A	N/A	Monitor Only	Monitor Only	ug/l	1/Quarter	8 hr. Composite
2,4,6-Trichlorophenol	N/A	N/A	Monitor Only	Monitor Only	ug/l	1/Quarter	8 hr. Composite
Mercury, Total	N/A	N/A	0.0078	0.022	ug/l	1/Month	Grab
Nickel, Total Recoverable	N/A	N/A	Monitor Only	Monitor Only	ug/l	1/Quarter	8 hr. Composite
Selenium, Total	N/A	N/A	4	8.5	ug/l	1/Month	8 hr. Composite
Dissolved Oxygen	N/A	N/A	N/A	6 (minimum)	mg/l	1/Month	Grab

**The pH shall not be less than 6.0 standard units and not greater than 9.0 standard units.**

**Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Outlet 001.**  
All samples shall be taken at or as near as possible to the point of discharge.

This discharge shall comply with Appendix A - Management Conditions - 12.

### A.001 Discharge Limitations and Monitoring Requirements

**During the period beginning December 1, 2022 and lasting through midnight October 27, 2027 the permittee is authorized to discharge from Outlet Number(s) 001 - Discharge from Sediment Basin No. 2 (Stormwater, Other)**

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>		<u>Other Units (Specify)</u>			<u>Monitoring Requirements</u>	
	<u>(Quantity) lbs/day</u>		<u>Avg. Monthly</u>	<u>Max. Daily</u>		<u>Measurement Frequency</u>	<u>Sample Type</u>
Chronic Toxicity* (Pimephales Promelas)	N/A	N/A	Monitor Only	Monitor Only	TUc	1/Year	8 hr. Composite
Chronic Toxicity* (Ceriodaphnia Dubia)	N/A	N/A	Monitor Only	Monitor Only	TUc	1/Year	8 hr. Composite
Zinc, Total Recoverable <i>Interim: Up to 24 months</i>	N/A	N/A	Monitor Only	Monitor Only	ug/l	1/Month	8 hr. Composite
Zinc, Total Recoverable <i>Final: After 24 months</i>	N/A	N/A	40	120	ug/l	1/Month	8 hr. Composite

\* See Section C.4.

**The pH shall not be less than 6.0 standard units and not greater than 9.0 standard units.**

**Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Outlet 001.**  
All samples shall be taken at or as near as possible to the point of discharge.

This discharge shall comply with Appendix A - Management Conditions - 12.

# **A.101 Discharge Limitations and Monitoring Requirements**

**During the period beginning December 1, 2022 and lasting through midnight October 27, 2027 the permittee is authorized to discharge from Outlet Number(s) 101 - Discharge from leachate treatment facilities serving TRI (Leachate)**

Such discharges shall be limited and monitored by the permittee as specified below:

<u><b>Effluent Characteristic</b></u>	<u><b>Discharge Limitations</b></u>		<u><b>Monitoring Requirements</b></u>				
	<u><b>(Quantity) lbs/day</b></u>		<u><b>Other Units (Specify)</b></u>			<u><b>Measurement Frequency</b></u>	<u><b>Sample Type</b></u>
	<u><b>Avg. Monthly</b></u>	<u><b>Max. Daily</b></u>	<u><b>Avg. Monthly</b></u>	<u><b>Max. Daily</b></u>			
Flow	N/A	N/A	0.008	Monitor Only	MGD	Continuous	Measured
Total Suspended Solids	Monitor Only	Monitor Only	Monitor Only	Monitor Only	mg/l	1/Month	8 hr. Composite
NH3-N	Monitor Only	Monitor Only	Monitor Only	Monitor Only	mg/l	1/Month	8 hr. Composite
Aluminum, Total Recoverable	Monitor Only	Monitor Only	N/A	Monitor Only	ug/l	1/Month	8 hr. Composite
Arsenic, Total	Monitor Only	Monitor Only	N/A	Monitor Only	ug/l	1/Month	8 hr. Composite
Chloride	Monitor Only	Monitor Only	N/A	Monitor Only	mg/l	1/Month	8 hr. Composite
Copper, Total Recoverable	Monitor Only	Monitor Only	N/A	Monitor Only	ug/l	1/Month	8 hr. Composite
Hexavalent Chromium	Monitor Only	Monitor Only	N/A	Monitor Only	ug/l	1/Month	Grab
Iron, Total Recoverable	Monitor Only	Monitor Only	N/A	Monitor Only	mg/l	1/Month	8 hr. Composite
Mercury, Total	Monitor Only	Monitor Only	N/A	Monitor Only	ug/l	1/Month	Grab
Nickel, Total Recoverable	Monitor Only	Monitor Only	N/A	Monitor Only	ug/l	1/Month	8 hr. Composite
Selenium, Total	Monitor Only	Monitor Only	N/A	Monitor Only	ug/l	1/Month	8 hr. Composite
Zinc, Total Recoverable	Monitor Only	Monitor Only	N/A	Monitor Only	ug/l	1/Month	8 hr. Composite

**The pH shall be monitored only and the minimum and maximum values shall be recorded in standard units.**

**Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Outlet 101.**  
At the Outlet of leachate collection and treatment system.



**A.099 Discharge Limitations and Monitoring Requirements**

**During the period beginning December 1, 2022 and lasting through midnight October 27, 2027 the permittee is authorized to discharge from Outlet Number(s) 099 - Influent Leachate Flow (Leachate)**

Such discharges shall be limited and monitored by the permittee as specified below:

<b><u>Effluent Characteristic</u></b>	<b><u>Discharge Limitations</u></b>				<b><u>Monitoring Requirements</u></b>		
	<b>(Quantity) lbs./day</b>		<b>Other Units (Specify)</b>		<b><u>Measurement Frequency</u></b>	<b><u>Sample Type</u></b>	
	<b><u>Avg. Monthly</u></b>	<b><u>Max. Daily</u></b>	<b><u>Avg. Monthly</u></b>	<b><u>Max. Daily</u></b>			
Flow	N/A	N/A	Monitor Only	Monitor Only	MGD	Continuous	Measured

**Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):**  
099 Influent Leachate Flow.

**A.MWDWN Discharge Limitations and Monitoring Requirements**

**During the period beginning December 1, 2022 and lasting through midnight October 27, 2027 the permittee will monitor Well Number(s): MW-1, MW-1A, MW-2, MW-4 (Downgradient Monitoring Wells)**

Such groundwater shall be limited and monitored by the permittee as specified below:

<u>Monitoring Well Characteristic</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	(Quantity) <u>Avg. Monthly</u>	lbs./day <u>Max. Daily</u>	Other Units <u>Avg. Monthly</u>	(Specify) <u>Max. Daily</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
33CSR1 Appendix I Parameters List	N/A	N/A	Monitor Only	Monitor Only	*	1/6 months Grab

\* Units shall be as designated in 33CSR1 Appendix I. Where not designated, the permittee shall use the appropriate concentration-based units as provided by the approved method of analysis. Specific conductance shall be reported in umhos/cm.

**The pH shall be monitored only and the minimum and maximum values shall be recorded in standard units.**

**Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):**

Groundwater Monitoring Well MW-1, MW-1A, MW-2, MW-4. The permittee shall include the results of monitoring via the semi-annual groundwater monitoring report required by Section D.1.a. A Discharge Monitoring Report (DMR) is not required for these monitoring wells at this time.

**B. SCHEDULE OF COMPLIANCE**

1. The permittee shall achieve compliance with the provisions for waste treatment and the discharge limitations specified in this permit in accordance with the following schedule, if applicable:

**On or before March 1, 2023**

The permittee shall submit a plan of action that identifies the courses of action to be taken by the permittee that will result in compliance with the final effluent limitations for zinc at Outlet 001.

**On or before June 1, 2023, September 1, 2023, June 1, 2024, and September 1, 2024.**

The permittee shall submit a progress report that identifies the status of the actions taken, as well as actions to be taken, to come into compliance with the final effluent limitations for zinc at Outlet 001.

**On or before December 1, 2023.**

The permittee shall complete any studies, complete any designing or engineering, obtain any necessary funding, and commence implementation of any action specified in the latest revision of the plan of action for compliance in order to achieve compliance with the for zinc at Outlet 001. The permittee shall also submit a progress report which summarizes actions taken and additional actions to be taken in the future to achieve compliance with the final effluent limitations for zinc at Outlet 001.

**On or before March 1, 2024.**

The permittee shall begin the construction of any upgrades or system modifications necessary to comply with the final effluent limitations for zinc at Outlet 001.

**On or before December 1, 2024.**

The permittee shall complete the construction of any necessary upgrades or system modifications and shall comply with the final effluent limitations for zinc at Outlet 001.

**On or before June 1, 2023.**

The permittee shall develop, implement and maintain a stormwater pollution prevention plan (SWPPP) for the site. The SWPPP shall be prepared in accordance with good engineering practices. The SWPPP shall identify potential sources of pollution, which may reasonably be expected to affect the quality of storm water discharges associated with the industrial activity. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the solid waste handling activities at the facility and to assure compliance with the terms and conditions of this permit. A copy of this document shall be retained at the site for review upon request.

**On or before June 1, 2023**

A Groundwater Protection Plan (GPP) shall be developed, implemented and maintained at the site and shall be available for inspection by the Division of Water and Waste Management personnel.

**On or before June 1, 2023**

The permittee shall provide documentation in the form of detailed calculations of the establishment of groundwater backgrounds per 33 CSR 1, Section 4.11.a.4 for all the parameters in Section A.MWDWN for each monitoring well MW-1, MW-1A, MW-2, and MW-4.

2. Reports of compliance or noncompliance with, and progress reports on the interim and final requirements contained in the above compliance schedule, shall be submitted no later than fourteen (14) days following each scheduled date.

**C. OTHER REQUIREMENTS**

1. The herein-described treatment works, structures, electrical and mechanical equipment shall be adequately protected from physical damage by the maximum expected one hundred (100) year flood level and operability be maintained during the twenty-five (25) year flood level.
2. The entire leachate treatment / storage facility shall be adequately protected by fencing.
3. Sediment Basin No. 1 and Sediment Basin No. 2 in series will serve a maximum disturbed area of twenty-eight (28) acres and a maximum drainage area of one hundred thirty (130) acres.
4. The permittee shall 1/year perform chronic toxicity tests as described below, on the effluent from Outlet(s) 001:
  - a. Such testing will determine if an appropriate dilute effluent sample affects the survival or reproduction of the test species. Flow weighted composite samples of the effluent, as prescribed in Section A, shall be collected for testing. An appropriate statistical test shall be used to determine whether differences in control and effluent data are significant.
    - 1) The permittee shall conduct a three brood (6-8 days) Ceriodaphnia Dubia survival and reproduction toxicity test on the final effluent diluted by appropriate control water. Toxicity will be demonstrated if there is a statistically significant difference at the 95 percent confidence level in survival or reproduction between Ceriodaphnia Dubia exposed to an appropriate control water and the final effluent. All test solutions shall be renewed using an approved renewal schedule. If, in any control, more than 20% of the test organisms die, or less than 60% of surviving females in controls produced their third brood, that test shall be repeated.
    - 2) The permittee shall conduct a 7-day Pimephales Promelas fathead minnow larval survival and growth toxicity test on the final effluent diluted by appropriate control water. Toxicity will be demonstrated if there is a statistically significant difference at the 95 percent confidence level in survival or growth between fathead minnows exposed to appropriate control water and the final effluent. All test solutions shall be renewed using an approved renewal schedule. If, in any control, more than 20% of the test organisms die, or average dry weight of surviving controls was less than 0.25 mg/l that test shall be repeated.
  - b. Results shall be reported in terms of chronic toxic units (TUC) and shall be submitted with the corresponding monthly Discharge Monitoring Report (DMR).
  - c. The monitoring required, herein, shall be conducted in accordance with the sample collection, preservation, and analytical procedures specified in 40 CFR 136.
  - d. In addition to the monitoring data reporting requirements of 40 CFR 136, the exact age of the test organisms at the initiation of the test shall be reported. Values of less than or equal to 24 hours are acceptable for Pimephales Promelas, fathead minnow. The range of the Ceriodaphnia Dubia used must be reported as a range in hours. All Ceriodaphnia Dubia used in the test must be less than 24 hours of age at test commencement. The age

difference between the youngest and oldest Ceriodaphnia Dubia used in the test must not exceed eight (8) hours.

$TUc = 100/NOEC$  or NOEL

Where NOEC (or NOEL) is No Observed Effect Concentration (or Level), which is expressed as percent (volume) effluent in dilution water.

For Example, if NOEC is 10%,  $TUc = 100/10 = 10$

When the effluent demonstrates no toxicity at 100% effluent (no observed effect), the permittee may report zero TUc.

- e. The chronic toxicity testing shall be performed on an annual (1/year) basis. The first chronic toxicity testing shall be carried out within 6 months from the effective date of the permit for Outlet(s) 001. There shall be a minimum of three (3) months between sampling events.
- f. If chronic effluent toxicity testing shows noncompliance with the specified limitations prescribed in Section A, the permittee shall immediately resample and test the effluent. This shall be performed within 30 days of the initial demonstration of noncompliance with the whole effluent toxicity discharge limitations prescribed herein. Copies of the retesting results shall be provided to the Director immediately upon completion of the test.

If the second test shows compliance, chronic effluent toxicity testing shall continue in accordance with the requirements, as prescribed herein. However, if the second test shows noncompliance, the Director shall impose further requirements, as may be necessary, in order to obtain compliance with the chronic effluent toxicity discharge limitations.

- g. The Director may impose further requirements should the chronic effluent toxicity testing results demonstrate noncompliance.
- 5. The analytical test procedures, set forth in 40 CFR Part 136, prescribes colorimetric methods for certain parameters. The digestion process for the performance of total recoverable is not sufficient for the utilization of a colorimetric procedure. Therefore, colorimetric procedures shall not be acceptable for the analysis of parameters prescribed as total recoverable.
  - 6. Leachate storage requirements:
    - a. Leachate storage facilities shall be capable of storing a volume equal to thirty (30) days of the average leachate flow.
    - b. The permittee shall evaluate the flow on all monthly leachate flow Discharge Monitoring Reports (DMRs). Should the average of four (4) consecutive DMRs indicate that there is an insufficient volume of leachate storage, the permittee shall submit plans to increase the volume of leachate storage within thirty (30) days of submission of the fourth consecutive DMR.
  - 7. A normal operational level within the leachate pond will be maintained so as to allow a freeboard storage capacity equal to ten (10) days of the average leachate flow; this level shall

be clearly marked in the tanks. If the level in the pond exceeds this normal operating level the operator shall notify the Director of the Division of Water and Waste Management within twenty-four (24) hours and inform him of the actions that will be taken to restore the tank to the operational level.

8. If there is evidence indicating potential or realized impacts on water quality due to any discharge associated with any activity covered by the permit, the permit may be promptly modified and/or reissued to include effluent limitations and/or other requirements to control such discharges.
9. The permittee shall submit each month according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration and/or quantities the values of the constituents listed in Section A analytically determined to be in the effluent (s).  
Additional information  
pertaining to effluent monitoring and reporting can be found in Section III of Appendix A.
10. The required DMRs should be received no later than twenty (20) days following the end of the reporting period and be addressed to:

a. Director

West Virginia Department of Environmental Protection  
Division of Water and Waste Management  
attn: Solid Waste Management Unit  
601 57th St. SE  
Charleston, WV 25304

b. Environmental Enforcement

West Virginia Department of Environmental Protection  
Division of Water and Waste Management  
attn: Environmental Enforcement  
2031 Pleasant Valley Rd.  
Suite #1  
Fairmont, WV 26554

11. The landfill shall have and implement a seep management plan. This seep management plan shall contain at a minimum the following:
  - a. The landfill operator shall place a stake at all seeps as soon as they are identified. The stake must be clearly labeled with an identification number. Once the seeps have been repaired the stakes may be removed.
  - b. Maintain a log book onsite that includes; at a minimum, the Date the seep was identified, a seep identification number, the location of the seep, and an estimated date to complete repair of the seep, completion date of the seep repair, how the seep was repaired.
  - c. All seeps shall be repaired as soon as possible.
12. This permit allows the direct discharge of leachate to the waters of the State. All leachate is to

be collected, treated, and discharged via Outlet 001. If for any reason the above referenced facilities can no longer adequately collect, treat, and discharge leachate, the permittee shall notify the Director of the Division of Water and Waste Management with the name and location of an alternative site of disposal within fifteen (15) calendar days. A plan for the permanent collection, disposal, and treatment of the leachate shall be submitted within thirty (30) days. If the permittee intends to cease discharging directly to Waters of the State, the permittee shall apply for a minor modification to this permit.

If the plan includes disposal at a Publicly Owned Treatment Works (POTW), the permittee shall provide documentation that an industrial user application has been submitted by the permittee to the new receiving facility's NPDES Permit. Upon regulatory approval of the acceptance, the permittee shall incorporate the change into this permit via a minor permit modification application within sixty (60) days of approval.

If the disposal will ultimately be performed at a facility of type not listed above (i.e., industrial NPDES facility, hazardous waste management facility, etc.) the permittee shall provide documentation of the approval of acceptance of the leachate by the receiving facility within the thirty (30) day notification.

13. Any "not detected (ND)" sampling result obtained by the permittee must be "ND" at the method detection limit (MDL) for the test method used for that parameter and shall be reported on the DMR as less than the MDL used (<MDL). The permittee shall not report a sampling result as Zero or "ND" or report the result as less than a minimum level (ML), reporting limit (RL), or practical quantitation limit (PQL).

When averaging values of analytical results for DMR reporting purposes for monthly averages, the permittee should use the actual analytical results when these results are greater than or equal to the MDL and should use zero (0) when these results are less than the MDL. If all analytical results are non-detect at the MDL (<MDL), then the permittee should use the actual MDL in the calculation for averaging and report the result as less than the average calculation.

14. Effluent monitoring for the following pollutants shall be conducted using the most sensitive methods and detection levels commercially available and economically feasible. The following methods are to be used unless the permittee desires to use a 40 CFR 136, EPA Approved Test Method with an equivalent or more sensitive method detection level. Regardless, it is recognized that detection levels can vary from analysis to analysis and that non-detect results at an equivalent MDL for the specified test method would not constitute a permit violation.

Parameter	EPA Method Number
Arsenic, Total Recoverable	200.9
Copper, Total Recoverable	200.8
Nickel, Total Recoverable	200.8
Selenium, Total Recoverable	200.9



Mercury, Total Recoverable	245.7 / 1631
Zinc, Total Recoverable	200.8
Pentachlorophenol	604
2,4,6-trichlorophenol	604
Diethyl Phthalate	525.2
Endosulfan	608.3

In incidences where a specific test method is not defined, the permittee shall utilize an EPA approved method with a method detection limit (MDL) sensitive enough to confirm compliance with the permit effluent limit for that parameter. If an MDL is not sensitive enough to confirm compliance, the most sensitive method must be used. If a more sensitive EPA approved method becomes available, that method shall be used.

## **D. GROUNDWATER MONITORING**

### **1. Monitoring Well Reporting**

- a. The permittee shall submit semi-annual Groundwater Monitoring Well Reports indicating in terms of concentration the values of the constituents monitored in Section A. One hundred twenty (120) days shall transpire between sampling events. If concentration levels are found to be below method detection limits, so note and report the specific method detection limit. Metals concentrations shall be reported as dissolved metals except Total Chromium.
- b. Water levels shall be obtained prior to pumping or sampling using the wetted tape method or an electronic detector.
- c. Stagnant water shall be removed from the well bore prior to sampling so that a representative sample may be obtained. Stagnant water shall be removed at a rate that is no greater than the recovery rate of the well. The water shall be removed from the well bore until a constant (10% over two consecutive measurements) water temperature, pH and Specific Conductance is achieved, unless the well evacuates to dryness. In such cases, the well should be evacuated to dryness once. Upon sufficient recovery, the first sample shall be collected and tested for Temperature, pH, and Specific Conductance. The well shall be re-tested for pH, Temperature, and Specific Conductance after sampling as a measure of purging efficiency and as a check on the stability of the water samples over time. Values for pH, Temperature, and Specific Conductance obtained during purging shall be retained as stated in Section III.6 of Appendix A.
- d. The permittee shall annually determine the groundwater flow rate and direction in the uppermost significant aquifer with the results of the determination being submitted with the annual report.
- e. The permittee shall establish background groundwater quality for each of the monitoring parameters indicated in Appendix I of 33CSR1. The minimum number of samples used to establish background groundwater quality must be consistent with appropriate statistical procedures described in this Section 4.11a.7.
- f. The permittee shall determine whether there is a statistically significant increase over background levels for each parameter in Section A of this permit less pH, Total Suspended Solids, Specific Conductance and Temperature. To determine such, the permittee shall compare groundwater quality in downgradient monitoring wells MW-1, MW-1A, MW-2, and MW-4 to the background established in D.1.e. Said statistical determinations shall be submitted concurrently with the semi-annual Monitoring Well Report. If the permittee determines that there is a statistically significant increase over background for any parameter less pH, Total Suspended Solids, Specific Conductance, and Temperature, the permittee shall indicate concurrent with the submission of the Monitoring Well Report which parameters have shown the statistically significant increase and comply with the requirements of Section 4.11.b.4 of 33CSR1, Solid Waste Management Rule.

- g. The permittee must employ one of the following statistical procedures in combination with the appropriate sampling requirements to determine a statistically significant increase:
  - i. A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The procedure must include estimation and testing of the contrasts between each down gradient well's mean and the background mean level for each constituent,
  - ii. An analysis of variance based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The procedure must include estimation and testing of the contrasts between each down gradient well's mean and the background mean level for each constituent,
  - iii. Tolerance or prediction interval procedure in which a tolerance interval for each constituent is established from the distribution of the background data, and the level of each constituent is established from the distribution of the background data, and the level of each constituent in each down gradient well is compared to the upper tolerance or prediction limit; or
  - iv. A control chart approach that gives control limits for each constituent.
- h. The Director may establish an alternative sampling procedure and statistical test for any of the constituents listed in the permit, as required to protect human health and the environment.
- i. If there is a statistically significant increase over background concentrations for any groundwater parameter less pH, Total Suspended Solids, Specific Conductance, and Temperature, the permittee must do the following:
  - i. Within fourteen (14) days, place a notice in the operating record indicating which constituents have shown statistically significant changes from background levels and notify the Secretary that this notice was placed in the operating record.
  - ii. Within a thirty (30) day period of said finding, the permittee shall repeat the sampling of the groundwater in the appropriate monitoring well(s) in accordance with the requirements of this permit.
  - iii. If the repeat sampling indicates that there is not a statistically significant increase over the background for the respective pollutant, the permittee shall continue sampling as required by this permit.
  - iv. If the repeat sampling confirms that a statistically significant increase over background levels has occurred, the permittee must establish and implement a Phase II assessment monitoring program meeting the requirements of 33 CSR 1, Section 4.11.c within ninety (90) days of said confirmation.
  - v. If the concentrations of all Phase II constituents are shown to be at or below

background values, using the statistical procedures described above for two consecutive sampling events, the permittee must notify the Secretary of this finding and may return to Phase I detection monitoring.

- vi. If the concentrations of any Phase II constituents are above background values, but all concentrations are below the groundwater protection standards, using the statistical procedures described above, the permittee must continue assessment monitoring in accordance with Phase II requirements.
- j. The permittee shall not cause a statistically significant increase over the limitations (groundwater standards) for the monitoring wells listed in Section D.2.b. Should a limitation be exceeded, the permittee shall provide the following:
  - i. Within ninety (90) days of a finding that any of the constituents listed in the permit have been detected at a statistically significant level exceeding the groundwater protection standards, the permittee must initiate an assessment of corrective measures in accordance with 33 CSR 1, Section 4.11.e.
  - ii. Based on the results of the corrective measures assessment conducted pursuant to 33 CSR 1, Section 4.11.e, the permittee must select a remedy that, at a minimum, meets the standards listed in 33 CSR 1, Sections 4.11.f.2 and 4.11.f.3. The permittee must notify the Secretary, within fourteen (14) days of selecting a remedy, by sending him or her a report describing the selected remedy, stating that it has been placed in the operating record, and describing how it meets the standards in 33 CSR 1, Sections 4.11.f.2 and 4.11.f.3. Further, the permittee shall specify as part of the selected remedy a schedule(s) for initiating and completing remedial activities in accordance with 33 CSR 1, Section 4.11.f.4.
  - iii. The Secretary may determine that remediation of a Phase II constituent is not necessary if the permittee can successfully demonstrate to the Secretary conditions found in 33 CSR 1, Section 4.11.f.5. However, any determination by the Secretary pursuant to 33 CSR 1, Section 4.11.f.5 cannot affect the authority of the state to require the permittee to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and significantly reduce threats to human health or the environment.
  - iv. In accordance with 33 CSR 1, Section 4.11.g, the permittee shall implement the corrective action program based on the schedule required by 33 CSR 1, Sections 4.11.f.4 and 4.11.g.
- 2. Based on a review of the historic Groundwater Monitoring Program at the site, the following monitoring wells / parameters shall be monitored under the following Phase per 33 CSR 1, Section 4.11:

a. DETECTION PROGRAM - PHASE I

Per 33 CSR 1, Section 4.11.b.4 the permittee shall comply with Section D.1.i upon an exceedance of the respective background in each respective monitoring well. Upon

moving a Phase I parameter to Phase II parameter the permittee shall submit a major permit modification to revise Section D of the permit.

- i. The following wells shall be evaluated via intrawell statistics for all parameters in Section A not listed in Section D.2.b:

MW-1, MW-1A, MW-2, MW-4

- ii. The following wells shall be evaluated via interwell statistics for all parameters in Section A not listed in Section D.2.b:

N/A

b. ASSESSMENT PROGRAM - PHASE II

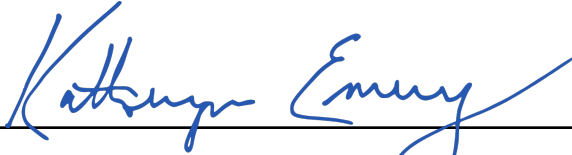
Assessment Monitoring is not required at this time.

Any person having interest which is or may be adversely affected, or who is aggrieved by the issuance or denial of this permit or by the permit's terms or conditions, may appeal to the Environmental Quality Board as provided in W.Va. Code, Chapter 22B, Article 1.

October 28, 2022

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Date of Issuance



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Katheryn D. Emery, P.E., Director  
Division of Water and Waste Management

# Appendix A

## I. MANAGEMENT CONDITIONS:

### 1. Duty to Comply

- a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.
- b) The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

### 2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit at least 180 days prior to expiration of the permit.

### 3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

### 4. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

### 5. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

### 6. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified as required in Title 47, Series 10, Section 4.6 of the West Virginia Legislative Rules.

### 7. Transfers

This permit is not transferrable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

### 8. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable specified time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

### 9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

### 10. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;
- b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any location.

### 11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22-11-12 of the Code of West Virginia.

### 12. Water Quality

This discharge shall not cause or materially contribute to: distinctly visible floating or settleable solids, suspended solids, scum, foam or oily slicks; deposits or sludge bank on the bottom; odors in the vicinity of the waters; taste or odor that would adversely affect the designated uses of the affected waters; distinctly visible color which may impair or interfere with the designated uses of the affected waters; and shall not cause a fish or mussel kill. The limitations and conditions in this permit for the discharges identified in this permit are limitations and conditions that are necessary to meet applicable West Virginia water quality standards, Requirements Governing Water Quality Standards 47 CSR 2.

### 13. Outlet Markers

A permanent marker at the establishment shall be posted in accordance with Title 47, Series 11, Section 9 of the West Virginia Legislative Rules.

### 14. Liabilities

- a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, 308 or 405 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.
- b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 2 years, or by both.
- c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 2 years, or by both.
- d) Nothing in I.14 a), b), and c) shall be construed to limit or prohibit any other authority the Director may have under the State Water Pollution Control Act, Chapter 22, Article 11.

## II. OPERATION AND MAINTENANCE:

### 1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. For domestic waste treatment facilities, waste treatment operators as classified by the WV Bureau of Public Health Laws, W. Va. Code Chapter 16-1, will be required except that in circumstances where the domestic waste treatment facility is receiving any type of industrial waste, the Director may require a more highly skilled operator.

### 2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

### 3. Bypass

- a) Definitions
  - (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and
  - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of II.3.c) and II.3.d) of this permit.
- c)
  - (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass;
  - (2) If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in IV.2.b) of this permit.
- d) Prohibition of bypass
  - (1) Bypass is permitted only under the following conditions, and the Director may take enforcement action against a permittee for a bypass, unless;
    - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
    - (C) The permittee submitted notices as required under II.3.c) of this permit.
  - (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in II.3.d.(1) of this permit.

### 4. Upset

- a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitation if the requirements of II.4.c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (2) The permitted facility was at the time being properly operated;
  - (3) The permittee submitted notice of the upset as required in IV.2.b) of this permit.
  - (4) The permittee complied with any remedial measures required under I.3. of this permit.
- d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

### 5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Director, any solids, sludges, filter backwash or other pollutants (removed in the course of treatment or control of wastewaters) and which are intended for disposal within the State, shall be disposed of only in a manner and at a site subject to the approval by the Director. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Director in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.



### III. MONITORING AND REPORTING

#### 1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

#### 2. Reporting

- a) Permittee shall submit, according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s). DMR submissions shall be made in accordance with the terms contained in Section C of this permit.
- b) Enter reported average and maximum values under "Quantity" and "Concentration" in the units specified for each parameter, as appropriate.
- c) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled "N.E." (i.e., number exceeding).
- d) Specify frequency of analysis for each parameter as number of analyses/specified period (e.g., 3/month is equivalent to 3 analyses performed every calendar month). If continuous, enter "Cont.". The frequency listed on format is the minimum required.

#### 3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136, unless other test procedures have been specified elsewhere in this permit.

#### 4. Recording of Results

For each measurement or sample taken pursuant to the permit, the permittee shall record the following information.

- a) The date, exact place, and time of sampling or measurement;
- b) The date(s) analyses were performed;
- c) The individual(s) who performed the sampling or measurement;
- d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;
- e) The analytical techniques or methods used, and
- f) The results of such analyses. Information not required by the DMR form is not to be submitted to this agency, but is to be retained as required in III.6.

#### 5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

#### 6. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for the permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

#### 7. Definitions

- a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.
- b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- c) "Maximum daily discharge limitation" means the highest allowable daily discharge.
- d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval (for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.
- e) "Grab Sample" is an individual sample collected in less than 15 minutes.
- f) "is" = immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.
- g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.
- h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two (2) consecutive hours during a 24 hour day, or during the operating day if flows are of shorter duration.
- i) The "monthly average fecal coliform" bacteria is the geometric average of all samples collected during the month.
- j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or which a relationship to absolute volume has been obtained.
- k) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.
- l) "Non-contact cooling water" means the water that is contained in a leak-free system, i.e., no contact with any gas, liquid, or solid other than the container for transport; the water shall have no net poundage addition of any pollutant over intake water levels, exclusive of approved anti-fouling agents.

## IV. OTHER REPORTING

### 1. Reporting Spills and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties established pursuant to Title 47, Series 11, Section 2 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11. Attached is a copy of the West Virginia Spill Alert System for use in complying with Title 47, Series 11, Section 2 of the Legislative rules as they pertain to the reporting of spills and accidental discharges.

### 2. Immediate Reporting

- a) The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Agency's designated spill alert telephone number. A written submission shall be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- b) The following shall also be reported immediately:
  - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
  - (2) Any upset which exceeds any effluent limitation in the permit; and
  - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit shall be reported immediately. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.
- c) The Director may waive the written report on a case-by-case basis if the oral report has been received in accordance with the above.
- d) Compliance with the requirements of IV.2 of this section, shall not relieve a person of compliance with Title 47, Series 11, Section 2.

### 3. Reporting Requirements

- a) Planned changes. The permittee shall give notice to the Director of any planned physical alterations or additions to the permitted facility which may affect the nature or quantity of the discharge. Notice is required when:
  - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 13.7.b of Series 10, Title 47; or
  - (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under IV.2 of this section.
- b) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- c) In addition to the above reporting requirements, all existing manufacturing, commercial, and silvicultural discharges must notify the Director in writing as soon as they know or have reason to believe:
  - (1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, or any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
    - (A) One hundred micrograms per liter (100 ug/l);
    - (B) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitro phenol; and for 2-methyl 4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
    - (C) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.9 of Series 10, Title 47.
    - (D) The level established by the Director in accordance with Section 6.3.g of Series 10, Title 47;
  - (2) That any activity has occurred or will occur which would result in any discharge (on a non-routine or infrequent basis) of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
    - (A) Five hundred micrograms per liter (500 ug/l);
    - (B) One milligram per liter (1 mg/l) for antimony;
    - (C) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.7 of Series 10, Title 47;
    - (D) The level established by the Director in accordance with Section 6.3.g of Series 10, Title 47.
  - (3) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 10, Title 47 and which will result in the discharge on a routine or frequent basis of that toxic pollutant at levels which exceed five times the detection limit for that pollutant under approved analytical procedure.
  - (4) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 10, Title 47 and which will result in the discharge on a non-routine or infrequent basis of that toxic pollutant at levels which exceed ten times the detection limit for that pollutant under approved analytical procedure.

### 4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under the above paragraphs at the time monitoring reports are submitted. The reports shall contain the information listed in IV.2.a). Should other applicable noncompliance reporting be required, these terms and conditions will be found in Section C of this permit.

**STATE OF WEST VIRGINIA  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
DISCHARGE MONITORING REPORT**

FACILITY NAME: Tire & Rubber, Inc.  
 LOCATION OF FACILITY: Hackers Creek District, Lewis County  
 PERMIT NUMBER: SWF-4024/WV0109533 OUTLET NO.: 001  
 WASTELOAD FOR MONTH OF: 20

COMMERCIAL LABORATORY NAME: \_\_\_\_\_  
 COMMERCIAL LABORATORY ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity					Other Units					Measurement Frequency	Sample Type
		Minimum	Avg Monthly	Max Daily	Units	N.E.	Minimum	Avg Monthly	Max Daily	Units	N.E.		
Flow 50050	Reported									MGD			
	Permit Limitation							Monitor	Monitor			1/Month	Estimate
TSS 00530	Reported				lbs/day					mg/l			
	Permit Limitation							49	61			1/Month	8 hr Comp
COD 81017	Reported				lbs/day					mg/l			
	Permit Limitation							Monitor	Monitor			1/Quarter	8 hr Comp
NH3N 34726	Reported				lbs/day					mg/l			
	Permit Limitation							4.6	9.3			1/Month	8 hr Comp
Arsenic 01002	Reported				lbs/day					ug/l			
	Permit Limitation							10	16			1/Month	8 hr Comp
Endosulfan 39388	Reported				lbs/day					ug/l			
	Permit Limitation							Monitor	Monitor			1/Quarter	8 hr Comp
Chloride 00940	Reported				lbs/day					mg/l			
	Permit Limitation							162	424			1/Month	8 hr Comp

Name of Principal Exec. Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Exec. Officer or Auth. Agent

**STATE OF WEST VIRGINIA  
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 COMMERCIAL LABORATORY ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity					Other Units					Measurement Frequency	Sample Type
		Minimum	Avg Monthly	Max Daily	Units	N.E.	Minimum	Avg Monthly	Max Daily	Units	N.E.		
Copper 01119	Reported				lbs/day					ug/l			
	Permit Limitation							Monitor	Monitor			1/Quarter	8 hr Comp
Diethyl Phthalate 34336	Reported				lbs/day					ug/l			
	Permit Limitation							Monitor	Monitor			1/Quarter	8 hr Comp
Hexavalent Chromium 01032	Reported				lbs/day					ug/l			
	Permit Limitation							Monitor	Monitor			1/Quarter	Grab
Iron 00980	Reported				lbs/day					mg/l			
	Permit Limitation							0.7	2.3			1/Month	8 hr Comp
Pentachloro phenol 39032	Reported				lbs/day					ug/l			
	Permit Limitation							Monitor	Monitor			1/Quarter	8 hr Comp
2,4,6-trichlorophenol 34621	Reported				lbs/day					ug/l			
	Permit Limitation							Monitor	Monitor			1/Quarter	8 hr Comp
Mercury 01260	Reported				lbs/day					ug/l			
	Permit Limitation							0.0078	0.022			1/Month	Grab

Name of Principal Exec. Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Exec. Officer or Auth. Agent

**STATE OF WEST VIRGINIA  
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COMMERCIAL LABORATORY NAME: \_\_\_\_\_  
 COMMERCIAL LABORATORY ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity					Other Units					Measurement Frequency	Sample Type
		Minimum	Avg Monthly	Max Daily	Units	N.E.	Minimum	Avg Monthly	Max Daily	Units	N.E.		
Nickel 01074	Reported				lbs/day					ug/l			
	Permit Limitation							Monitor	Monitor			1/Quarter	8 hr Comp
Selenium 01147	Reported				lbs/day					ug/l			
	Permit Limitation							4	8.5			1/Month	8 hr Comp
WET (Pimephales) 61428	Reported				lbs/day					TUc			
	Permit Limitation							Monitor	Monitor			1/Year	8 hr Comp
Aluminum 01104	Reported				lbs/day					ug/l			
	Permit Limitation							268	750			1/Month	8 hr Comp
pH 00400	Reported				lbs/day					S.U.			
	Permit Limitation						6.0		9.0			1/Month	8 hr Comp
WET (Ceriodaphnia) 61426	Reported				lbs/day					TUc			
	Permit Limitation							Monitor	Monitor			1/Year	8 hr Comp
Dissolved Oxygen 00300	Reported				lbs/day					mg/l			
	Permit Limitation						6					1/Month	Grab

Name of Principal Exec. Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel property gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.	Date Completed
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COMMERCIAL LABORATORY NAME: \_\_\_\_\_  
 COMMERCIAL LABORATORY ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity					Other Units					Measurement Frequency	Sample Type
		Minimum	Avg Monthly	Max Daily	Units	N.E.	Minimum	Avg Monthly	Max Daily	Units	N.E.		
Zinc 01094 (Interim)	Reported				lbs/day					ug/l			
	Permit Limitation							Monitor	Monitor			1/Month	8 hr Comp
Zinc 01094 (Final)	Reported				lbs/day					ug/l			
	Permit Limitation							40	120			1/Month	8 hr Comp
	Reported				lbs/day								
	Permit Limitation												
	Reported				lbs/day								
	Permit Limitation												
	Reported				lbs/day								
	Permit Limitation												
	Reported				lbs/day								
	Permit Limitation												
	Reported				lbs/day								
	Permit Limitation												
	Reported				lbs/day								
	Permit Limitation												

Name of Principal Exec. Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.	Date Completed
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FACILITY NAME: Tire & Rubber, Inc.  
 LOCATION OF FACILITY: Hackers Creek District, Lewis County  
 PERMIT NUMBER: SWF-4024/WV0109533 OUTLET NO.: 101  
 WASTELOAD FOR MONTH OF: 20

COMMERCIAL LABORATORY NAME: \_\_\_\_\_  
 COMMERCIAL LABORATORY ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity					Other Units					Measurement Frequency	Sample Type
		Minimum	Avg Monthly	Max Daily	Units	N.E.	Minimum	Avg Monthly	Max Daily	Units	N.E.		
Flow 50050	Reported									MGD			
	Permit Limitation							0.008	Monitor			1/Month	Measure
TSS 00530	Reported				lbs/day					mg/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	8 hr Comp
Zinc 01094	Reported				lbs/day					mg/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	8 hr Comp
NH3N 00610	Reported				lbs/day					mg/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	8 hr Comp
Arsenic 01002	Reported				lbs/day					ug/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	8 hr Comp
Iron 39388	Reported				lbs/day					ug/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	8 hr Comp
Chloride 00940	Reported				lbs/day					mg/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	8 hr Comp

Name of Principal Exec. Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Exec. Officer or Auth. Agent

**STATE OF WEST VIRGINIA  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
DISCHARGE MONITORING REPORT**

FACILITY NAME: Tire & Rubber, Inc.  
 LOCATION OF FACILITY: Hackers Creek District, Lewis County  
 PERMIT NUMBER: SWF-4024/WV0109533 OUTLET NO.: 101  
 WASTELOAD FOR MONTH OF: 20

COMMERCIAL LABORATORY NAME: \_\_\_\_\_  
 COMMERCIAL LABORATORY ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity					Other Units					Measurement Frequency	Sample Type
		Minimum	Avg Monthly	Max Daily	Units	N.E.	Minimum	Avg Monthly	Max Daily	Units	N.E.		
Copper 01119	Reported				lbs/day					ug/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	8 hr Comp
Hexavalent Chromium 01032	Reported				lbs/day					ug/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	Grab
Nickel 01074	Reported				lbs/day					ug/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	8 hr Comp
Selenium 01147	Reported				lbs/day					ug/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	8 hr Comp
Mercury 01260	Reported				lbs/day					ug/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	Grab
Aluminum 01104	Reported				lbs/day					ug/l			
	Permit Limitation		Monitor	Monitor				Monitor	Monitor			1/Month	8 hr Comp
	Reported				lbs/day								
	Permit Limitation												

Name of Principal Exec. Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Exec. Officer or Auth. Agent



**STATE OF WEST VIRGINIA  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
DISCHARGE MONITORING REPORT**

FACILITY NAME: Tire & Rubber, Inc.  
 LOCATION OF FACILITY: Hackers Creek District, Lewis County  
 PERMIT NUMBER: SWF-4024/WV0109533 OUTLET NO.: 099  
 WASTELOAD FOR MONTH OF: 20

COMMERCIAL LABORATORY NAME: \_\_\_\_\_  
 COMMERCIAL LABORATORY ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity					Other Units					Measurement Frequency	Sample Type
		Minimum	Avg Monthly	Max Daily	Units	N.E.	Minimum	Avg Monthly	Max Daily	Units	N.E.		
Flow 50050	Reported									MGD			
	Permit Limitation							Monitor	Monitor			1/Month	Measure
	Reported				lbs/day								
	Permit Limitation												
	Reported				lbs/day								
	Permit Limitation												
	Reported				lbs/day								
	Permit Limitation												
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	Reported				lbs/day								
	Permit Limitation												
	Reported				lbs/day								
	Permit Limitation												

Name of Principal Exec. Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Exec. Officer or Auth. Agent

**EMERGENCY RESPONSE SPILL ALERT SYSTEM  
WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**REQUIREMENTS:**

Title 47, Series 11, Section 2 of the West Virginia Legislative Rules, Environmental Protection, Water Resources - Waste Management, Effective July 1, 1994.

**RESPONSIBILITY FOR REPORTING:**

Each and every person who may cause or be responsible for any spill or accidental discharge of pollutants into the waters of the State shall give immediate notification to the Division of Water and Waste Management's Emergency Notification Number, 1-800-642-3074. Such notification shall set forth insofar as possible and as soon thereafter as practical the time and place of such spill or discharge, type or types and quantity or quantities of the material or materials therein, action or actions taken to stop such spill or discharge and to minimize the polluting effect thereof, the measure or measures taken or to be taken in order to prevent a recurrence of any such spill or discharge and such additional information as may be requested by the Division of Water and Waste Management. This also applies to spills to the waters of the State resulting from accidents to common carriers by highway, rail and water.

It shall be the responsibility of each industrial establishment or other entity discharging directly to a stream to have available the following information pertaining to those substances that are employed or handled in its operation in sufficiently large amounts as to constitute a hazard in case of an accidental spill or discharge into a public stream:

- (1) Potential toxicity in water to man, animals and aquatic life;
- (2) Details on analytical procedures for the quantitative estimation of such substances in water and
- (3) Suggestions on safeguards or other precautionary measures to nullify the toxic effects of a substance once it has gotten into a stream.

Failure to furnish such information as required by Section 14, Article 11, Chapter 22, Code of West Virginia may be punishable under Section 24, Article 11, Chapter 22, and/or Section 22, Article 11, Chapter 22, Code of West Virginia.

It shall be the responsibility of any person who causes or contributes in any way to the spill or accidental discharge of any pollutant or pollutants into State waters to immediately take any and all measures necessary to contain such spill or discharge. It shall further be the responsibility of such person to take any and all measures necessary to clean-up, remove and otherwise render such spill or discharge harmless to the waters of the State.

When the Director determines it necessary for the effective containment and abatement of spills and accidental discharges, the Director may require the person or persons responsible for such spill or discharge to monitor affected waters in a manner prescribed by the Director until the possibility of any adverse effect on the waters of the State no longer exists.

**VOLUNTARY REPORTING BY LAW OFFICERS, U. S. COAST GUARD, LOCK MASTERS AND OTHERS:**

In cases involving river and highway accidents where the responsible party may or may not be available to report the incident, law officers, U. S. Coast Guard, Lock Masters and other interested person(s) should make the report.

**WHO TO CONTACT:**

Notify the following number: **1-800-642-3074**

**INFORMATION NEEDED:**

- |  |                                       |
|--|---------------------------------------|
| - Source of spill or discharge               | - Personnel at the scene              |
| - Location of incident                       | - Actions initiated                   |
| - Time of incident                           | - Shipper/Manufacturer identification |
| - Material spilled or discharged             | - Railcar/Truck identification number |
| - Amount spilled or discharged               | - Container type                      |
| - Toxicity of material spilled or discharged |                                       |

## **RIGHT OF APPEAL**

**Notice is hereby given of your right to appeal the terms and conditions of this permit which you are aggrieved by to the Environmental Quality Board by filing a NOTICE OF APPEAL on the form prescribed by such Board for this purpose, with the Board, in accordance with the provisions of Section 21, Article 11, Chapter 22 of the Code of West Virginia within thirty (30) days after the date of receipt of the above permit.**

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**TIRE & RUBBER, INC.**  
OF  
WESTON, WEST VIRGINIA  
RATES, RULES AND REGULATIONS FOR FURNISHING  
**SOLID WASTE DISPOSAL FACILITIES**  
at Weston, Lewis County, West Virginia  
Filed with THE PUBLIC SERVICE COMMISSION  
of  
WEST VIRGINIA

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Issued January 27, 2025

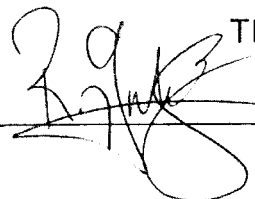
Effective for all service rendered on  
and after January 22, 2025.

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Issued by authority of an Order of the  
Public Service Commission of West  
Virginia in Case No. **24-0659-SWF-42A**  
final January 22, 2025.

By

CEO



TIRE AND RUBBER, INC.

Title

RULES AND REGULATIONS

- I. Rules and Regulations for the Government of Solid Waste Disposal Facilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission.
- II. Acceptable Waste  
Construction/demolition materials consisting of the following:  
Wood, plaster, metals, asphalt, blacktop, bricks, blocks, concrete, trees, stumps, brush and other materials that are classified as Construction/Demolition waste by the West Virginia Solid Waste Division.
- III. Tires  
Tires will be accepted in the following manner: whole, split, chopped, shredded, compacted or baled.
- IV. Non-Acceptable Waste  
Asbestos, garbage/trash, sludge, liquid, drums, hazardous waste, hospital/clinical waste, dead animals and all other waste not classified as construction/demolition waste by the West Virginia Solid Waste Division.

RATES

## (I) Tires from individuals: (Size 425 x 20 inches, or smaller)

Passenger Car Tires	\$ 1.74 per tire
Passenger Car Tires on Rim	\$ 3.49 per tire
Light Truck Tires	\$ 2.45 per tire
Light Truck Tires on Rim	\$ 4.19 per tire
Heavy Truck Tires	\$ 6.98 per tire
Heavy Truck Tires on Rim	\$ 8.72 per tire
One ton or more of any-size tire	Negotiable

All tires larger than 425 x 20 inches will be priced by inspection at a negotiable rate.

Tires brought to landfill from business/commercial entities – negotiable rate. Said negotiable rate will not exceed existing individual tire tariff rates.

The above rates are exclusive of applicable state and county assessment fees. Assessment fees are charged per ton or any part thereof disposed.

## (I) Tires from Commercial Entities - Per Ton: (Size 425 x 20 inches, or smaller)

Passenger Tires	\$116.00 per ton
Passenger Tires with rims	\$174.00 per ton
Dirty Passenger Tires	\$174.00 per ton
OTR/Industrial Tires	\$464.00 per ton

The above rates include all applicable state and county assessment fees. Assessment fees are charged per ton or any part thereof disposed.

(I) Indicates increase

## (I) Tires from Commercial Entities - Per Tire: (Size 425 x 20 inches, or smaller)

Passenger Car Tires	\$ 1.74 per tire
Passenger Car Tires on Rim	\$ 3.49 per tire
Light Truck Tires	\$ 2.45 per tire
Light Truck Tires on Rim	\$ 4.19 per tire
Heavy Truck Tires	\$ 6.98 per tire
Heavy Truck Tires on Rim	\$ 8.72 per tire
One ton or more of any-size tire	Negotiable

The above rates include all applicable state and county assessment fees.  
Assessment fees are charged per ton or any part thereof disposed.

## (I) Construction Demolition Materials:

\$56.04 per ton

Minimum of \$34.49 for pick-up truck.

The above rates are exclusive of applicable state and county assessment fees.  
Assessment fees are charged per ton or any part thereof disposed.

## (I) Indicates increase

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 11th day of June 2009.

CASE NO. 08-0877-MC-C

TIRE & RUBBER, INC.

a corporation,

Application for a certificate.

**COMMISSION ORDER**

This case is pending on the Exceptions of Tire & Rubber, Inc. ("T&R"), to the Administrative Law Judge ("ALJ") Recommended Decision denying the common carrier certificate application of T&R. The Commission grants the Exceptions and issues T&R the requested certificate.

**Background**

On May 28, 2008, T&R filed an application with the Commission, pursuant to W.Va. Code §24A-2-5, for a certificate of convenience and necessity to operate as a common carrier by motor vehicle in the transportation of solid waste, i.e., tires, construction and demolition material, aggregates and other basic materials such as sand and dirt, throughout the State of West Virginia.

In response to numerous protests filed following the T&R certificate filing, on July 22, 2008, T&R amended its application and requested a certificate to operate as a common carrier by motor vehicle in specialized service in the transportation of waste tires or scrap tires and/or tire-derived materials from commercial establishments statewide to T&R's monofill for used tires located at 710 Grass Run Road, Route 119/19, Lewis County, and/or other relevant locations for proper handling, processing, beneficial re-use, and/or disposal, except any monofills in Nicholas County, West Virginia. The certificate application provided that the rates are negotiable.<sup>1</sup>

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<sup>1</sup> T&R was already and currently is providing waste tire removal and transportation services but does not charge for that service. T&R charges customers only the tariff disposal rate at its Lewis County monofill. Hr. Tr. pp. 99-100. T&R filed this application so that it could charge a fee for tire removal and transportation service.



After T&R amended its certificate application, many of the certificated solid waste carriers that initially protested the application withdrew those protests.

On July 15, 2008, West Virginia Tire Disposal, Inc. ("WVTD"), filed a Petition to Intervene in this proceeding.

By Commission Order dated July 17, 2008, the Commission required T&R to publish notice of its application statewide including the opportunity to protest. The Commission also granted WVTD's petition to intervene and referred the case to the ALJ Division.

By Order issued October 27, 2008, and Corrective Order dated October 28, 2008, the ALJ ordered T&R to publish the revised notice language statewide. The ALJ also granted a number of pending petitions to intervene, and scheduled the matter for hearing.

On December 9, 2008, T&R filed affidavits of publication reflecting that the revised Notice of Filing had been published in the designated nineteen cities throughout West Virginia, constituting statewide publication.

The ALJ convened a hearing, as scheduled, on Thursday, January 8, 2009. T&R presented the testimony of four witnesses and introduced into evidence thirteen exhibits. WVTD presented the testimony of four witnesses and introduced into evidence nine exhibits. Sunrise Sanitation Services, Inc., presented no witnesses but introduced into evidence one exhibit. Allegheny Disposal, LLC, Nicholas Sanitation, Inc., and Lusk Disposal, Inc., presented no witnesses and introduced no exhibits into evidence.

The transcript of the January 8, 2009 hearing, filed on January 20, 2009, is referenced as "Hr. Tr. p. \_\_\_\_." The March 26, 2009 Recommended Decision summarizes all of the evidence presented at hearing and the Commission does not repeat that summary in this Order.

On February 5, 2009, T&R and WVTD each filed Initial Briefs, and on February 18, and 19, 2009, WVTD and T&R filed Reply Briefs, respectively.

### *The Recommended Decision*

By Recommended Decision issued March 26, 2009, the ALJ ruled that T&R had not satisfied its burden in this case. The ALJ cited case law and Chapter 24A of the West Virginia Code establishing that the applicant has the burden to show that the public convenience and necessity require the proposed service, to show financial ability, experience and fitness and to produce public witnesses to testify that the proposed service is needed in the area of application. The ALJ also noted that the quality of existing service is a controlling factor in a decision to grant or deny a common carrier certificate application. The ALJ concluded that T&R did not meet its burden because its public witnesses did not demonstrate that existing service is inadequate.

In response to T&R's argument that need for the proposed service exists by virtue of the fact that the State issued T&R a certificate to operate a tire monofill yet there is no specialized motor carrier with authority to remove and transport waste tires to that monofill, the ALJ stated that no statute, order or regulation supported this reasoning. The ALJ also rejected T&R's position that its service would not compete with that of WVTD. Finally, the ALJ rejected T&R's efforts to establish that WVTD is currently operating unlawfully and held that T&R's exhibits introduced to support this argument should be accorded no weight because T&R did not subpoena WVTD's owner and other testimony was irrelevant.

### *The Exceptions*

On April 10, 2009, T&R filed Exceptions arguing that because it seeks to provide a "specialized service," the ALJ applied an incorrect legal standard to its application. Specifically, T&R argued that the ALJ erred by concluding that 1) T&R's witnesses failed to address certificated carriers' current service and failed to show that T&R's service is needed; 2) T&R must produce witnesses to testify that the proposed service is needed; 3) the quality of existing service is a controlling factor in the decision whether a competing certificate application should be granted; and 4) the Commission must deny T&R's application if existing service is sufficient.

Instead of applying the legal criteria applicable to common carriers of solid waste, T&R stated that the Commission should apply the legal criteria established in North Marion Tire Recyclers, Inc., Case No. 03-1913-MC-C as the applicable criteria for specialized motor carrier service as described in West Virginia Tire Disposal, Inc., M.C. Case No. 30539-00-C. T&R believes that if the Commission applies the proper legal criteria to its application it will grant it a certificate.

### *Response to Exceptions*

On April 17, 2009, WVTD responded that the ALJ applied the proper, long-standing legal standards to the case. WVTD noted that because T&R (not certificated) wants to compete with WVTD (already certificated) by providing the same tire removal service, T&R's argument that tire removal is a "specialized" service is irrelevant. WVTD stated that "arguing 'specialized' cannot relieve an applicant of its statutory burden when faced with another 'specialized' certificate."

## **DISCUSSION**

W.Va. Code §24A-2-5(a) governs the grant of applications for common carrier by motor vehicle certificates of convenience and necessity and provides, in part:

[I]f the Commission finds from the evidence that the public convenience and necessity require the proposed service or any part thereof, it shall issue the certificate as prayed for, or issue it for the partial exercise only of the privilege

sought, and may attach . . . terms and conditions. . . Before granting a certificate to a common carrier by motor vehicle, the commission shall take into consideration existing transportation facilities in the territory for which a certificate is sought and, in case it finds from the evidence that the service furnished by existing transportation facilities is reasonably efficient and adequate, the commission shall not grant such certificate.

The common carrier certificate at issue in this case pertains to waste tire collection, a subject of much interest and concern to the West Virginia Legislature. In fact, the Legislature has passed into law several statutes to further the state's policy to devote resources to abandoned waste tire pile clean up as well as proper disposal of newly-generated waste tires.

In 2005, the West Virginia Legislature enacted the A. James Manchin Rehabilitation Environmental Action Plan, codified at W.Va. Code §22-15A-1 et seq. West Virginia Code §22-15A-1 states in pertinent part,

(c) The Legislature further finds that . . . The accumulation of waste tires has also become a significant environmental and public health hazard to the state . . .

(d) The Legislature also recognizes and declares that waste tires are a public nuisance and hazard; that waste tires serve as harborage and breeding places for rodents, mosquitoes, fleas, ticks and other insects and pests injurious to the public health, safety and general welfare; that waste tires collected in large piles pose an excessive risk to public health, safety and welfare from disease or fire; that the environmental, economic and societal damage resulting from fires in waste tire piles can be avoided by removing the piles; and that tire pile fires cause extensive pollution of the air and surface and groundwater for miles downwind and downstream from the fire.

(e) Therefore, in view of the funding relating to waste tires, the Legislature declares it to be the public policy of the State of West Virginia to eliminate the present danger resulting from discarded or abandoned waste tires and to eliminate the visual pollution resulting from waste tire piles and that in order to provide for the public health, safety and welfare, quality of life and to reverse the adverse impacts to the proper maintenance and efficiency of public highways, it is necessary to enact legislation to those ends by providing expeditious means and methods for effecting the disposal of waste tires.

West Virginia law further provides at W.Va. Code §22-15A-8,

(a) No person shall, within this state, place, deposit or abandon any waste tire or part thereof upon the right-of-way of any public highway or upon any other public property nor deposit or abandon any waste tire or part thereof upon any private property unless it is at a licensed monofill, solid waste facility or at any other business authorized by the Department of Environmental Protection to accept, process, manufacture or remanufacture waste tires.

(b) No person, except those persons who have received and maintain a valid permit or license from the state for the operation of a solid waste facility, waste tire monofill, waste tire processing facility, or other such permitted activities, shall accumulate more than one hundred waste tires for beneficial use without obtaining a license or permit from the Department of Environmental Protection.

The law goes on to contemplate a future market for recycled waste tires.

W.Va. Code §22-15-21 provides that unless a person or entity collects waste tires for beneficial use, only persons or entities with permits from the Department of Environmental Protection ("DEP") may accumulate waste tires. The code section further requires solid waste facilities to accept waste tires, in pertinent part, as follows:

(a) No person, except those persons who have received and maintained a valid permit or license from the state for the operation of a solid waste facility, waste tire monofill, waste tire processing facility, or other such permitted activities, shall accumulate waste tires . . .

\* \* \* \*

(i) Solid waste facilities shall accept whole waste tires and may charge a reasonable fee for acceptance of waste tires. . . . (j) . . . Provided, That the disposal of whole tires in a solid waste facility is allowed only when the Department of Environmental Protection has determined there is no other reasonable alternative available.

Chapter 24A of the West Virginia Code delegates the issuance of common carrier certificates of convenience and necessity to the Public Service Commission. W.Va. Code §§24A-2-3; 24A-2-5. As has been developed in earlier Commission common carrier cases that have presented the issue of waste tire collection and transportation for proper disposal, this Commission considers its regulation of the proper disposal of waste tires to be an important aspect of its authority. As expressed in state law, it is in the public interest to ensure that adequate and sufficient resources are devoted to the timely and proper collection and disposal of waste tires. The Commission's specialized transportation certificate

decisions discussed below arose from Commission efforts to conform to the Legislature's singling out of this important public interest.

*Commission precedent as to the legal standards applicable to motor carrier certificates of convenience and necessity to provide tire removal service.*

The Commission has granted only two common carrier certificates to provide tire removal service. The first was statewide authority issued to WVTD in 2001 to collect and transport waste tires to its own monofill. See West Virginia Tire Disposal, Inc. M.C. Case No. 30539-00-C, Commission Order August 28, 2001 ("WVTD"). In WVTD, the ALJ awarded WVTD a certificate to operate in only forty-three of the State's fifty-five counties based on filed protests from certificated solid waste motor carriers in twelve of the counties. Id. Recommended Decision issued September 6, 2000. On Exceptions, however, the Commission granted WVTD statewide authority based on a finding that tire removal service is a "specialized" service and that WVTD had proven, in addition to its satisfaction of other criteria such as financial fitness etc., that a statewide need existed. The Commission stated,

Since the transportation service that WV Tire proposes is different than the service provided by solid waste haulers, and since WV Tire uses special equipment, the Commission concludes that WV Tire proposes to offer a specialized transportation service, different from that provided by the certificated common carriers who protested this application.

See August 28, 2001 Commission Order, p. 12. As to convenience and necessity, the Commission stated that based on evidence that solid waste haulers combined were meeting less than one percent of the annual need for waste tire service, and even then only transporting waste tires to collection points, the public convenience and necessity required WVTD's proposed specialized service, pursuant to Weirton Ice & Coal, 240 S.E.2d. 686 (1977) and W.Va. Code §24A-2-5(a). The Commission found that WVTD had the financial ability, experience and fitness to provide the service because it had been collecting waste tires and hauling them to its monofill for years.

The second tire removal certificate case was North Marion Tire Recyclers, Inc., Case No. 03-1913-MC-C, Commission Order March 10, 2005, adopting Recommended Decision issued July 20, 2004 ("North Marion").<sup>2</sup> In North Marion, the applicant sought statewide authority to collect and transport waste tires to places of disposal. WVTD protested the application, but the ALJ granted the application for all counties except Grant, Hampshire, Mineral, Randolph, and Tucker. In North Marion, the applicant put on evidence that in contrast to WVTD that hauled waste tires to its own monofill for burial, North Marion hauled waste tires to Meadowfill landfill, and Meadowfill shredded all of the tires for use as cover.

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<sup>2</sup> The Commission issued North Marion a certificate to collect and transport waste tires, but it has apparently since ceased operations. Hr. Tr. p. 77.

The ALJ considered this to be a beneficial use of the tires, and the Recommended Decision included as a conclusion of law:

Because the service of hauling waste tires for beneficial use at a landfill is different than the service WVTD provides, i.e., hauling waste tires to its monofill, the public convenience and necessity require North Marion's hauling service. [Citing] West Virginia Tire Disposal Inc., Case No. 30539-00-C (2001).

See North Marion Conclusion of Law No. 1, Recommended Decision issued July 20, 2004, adopted as a final order of the Commission by Commission Order issued March 10, 2005.

The ALJ explained its rejection of WVTD's position that North Marion had not satisfied its burden to show that existing tire removal service was inadequate by referencing the Commission's WVTD decision,

[W]hat was critical [in the WVTD certificate case] was that the transportation service WVTD provided was different than what the certificated haulers provided; the Commission found it crucial that WVTD was hauling the tires to a monofill. North Marion's hauling fulfills another need, the beneficial use of the tires by Meadowfill Landfill. Perhaps it should be stressed that WVTD is limited by its certificate to haul waste tires to its monofill; it would be violating its certificate to haul any of its tires anywhere else. Accordingly, the record establishes that, should North Marion be denied hauling authority, Meadowfill Landfill would be denied the beneficial use of all shredded tires except for those that would be delivered to the landfill by the individuals or companies wanting to get rid of their waste tires. Certainly that source of waste tires would be inadequate for Meadowfill Landfill's needs.

In its Order denying the WVTD Exceptions, the Commission agreed with the ALJ that North Marion satisfied its burden to prove that a need existed for its service noting that 1) North Marion presented testimony from both tire retailers and a former director of the Harrison County Solid Waste Authority, 2) North Marion demonstrated that it provided Meadowbrook Landfill with recyclable shredded tire product that is used for daily cover and cell construction, and 3) North Marion stated that it converts all its waste tires into reusable material in accordance with the legislative intent of W.Va. Code §17C-24- 1. See North Marion, March 10, 2005 Commission Order p. 3.

Whereas the WVTD case established that tire removal service is a specialized service *vis-a-vis* solid waste motor carrier service, the decision did not remove the established legal standards for issuance of common carrier certificates (as summarized by the ALJ on pp. 11-12 of the Recommended Decision in this case) from the Commission's evaluation of a motor carrier application seeking to provide the same tire removal service as an already certificated motor carrier. The North Marion case introduced a policy that collection of

waste tires for beneficial use (landfill cover and cell construction) satisfies a separate need for tire collection service than does collection of waste tires for a monofill. The North Marion decision likewise did not remove the applicability of established common carrier certificate legal standards when one applicant seeks to provide the same service as an already certificated carrier.

*Application of the North Marion and traditional common carrier certificate criteria to this application.*

T&R argued that its service is not the same as WVTD's service, because T&R will transport tires to its monofill and not to WVTD's. T&R argued that instead of the established legal standards, the Commission should apply the North Marion criteria because tire removal service is specialized, and because T&R will provide a service distinct from that provided by WVTD. T&R characterized the North Marion criteria as: 1) the provision of a different service than the existing tire removal carrier's service (WVTD was only authorized to transport tires to its own monofill and North Marion sought to transport tires to Meadowfill for beneficial use); 2) the fact that abandoned tires are still a problem in the state indicates that the proposed tire collection and removal service are convenient and necessary; and 3) fitness of the existing certificated motor carrier to provide the service. Exceptions, pp. 7-8. T&R urged the Commission to accord lesser importance to the adequacy of existing statewide service in a specialized common carrier application particularly when the tire destination is different. Id. at 16-18.

As stated above, the Commission does not believe that the North Marion decision replaced the established legal standards for evaluating motor carrier certificates when an applicant seeks to provide identical waste tire collection service to that provided by a certificated carrier. The North Marion decision did establish, however, that one carrier's waste tire collection service may not be the same as another's, even when comparing statewide authority to an application for statewide authority. Therefore, North Marion is helpful in evaluating the need for the transportation service. In North Marion, the distinction was disposal for a beneficial use.

In this case, the Commission must determine whether T&R's distinct destination for waste tires constitutes a substantive distinction to justify an analysis of the North Marion criteria together with the established legal standards. Under this analysis, the Commission first determines whether the applicant's service would be identical to the certificated protesting carrier's service.

T&R argued that the distinct destination is a substantive difference because WVTD can only transport tires to its own monofill in Nicholas County and there are two other tire

monofills in the state (The two other monofills include T&R's facility in Lewis County<sup>3</sup> and the Charles H. Pase tire monofill in Preston County<sup>4</sup>). T&R's monofill is certificated by this Commission and permitted by the DEP to receive 9,999 tons of tires per month, and currently receives approximately 1,000 tons of tires per month. See Hr. Tr. pp. 90, 93; T&R Exh. 10.

The Commission concludes that T&R will offer a service distinct from WVTD. It does not make sense for a certificated and permitted tire monofill solid waste facility to have no certificated common carrier that is authorized to collect tires and bring them to the monofill. While WVTD argued that it can and does collect waste tires statewide, the fact remains that it may only transport those tires to its own facility in Nicholas County. T&R's facility in Lewis County does not receive any tires collected by a certificated motor carrier because there is no carrier with authority to transport waste tires to its location. In view of the state's public policy to devote resources to proper tire disposal, the difference in tire destinations is indeed a substantive distinction and the Commission concludes that T&R is proposing a distinct waste tire collection and transportation service from that provided by WVTD, to the same extent that beneficial use of waste tires for shredded cover and cell construction constituted a distinct service in the North Marion case.

Having determined that T&R's application is to provide service that is not identical to WVTD's, the Commission will discuss the other legal standards that apply to T&R's application. The ALJ accurately set forth the common carrier certificate requirements of West Virginia law applicable to *unspecialized* applicants to provide common carrier solid waste collection and transportation service. See W.Va. Code §24A-2-5(a). Those applicants have the burden to establish that the public convenience and necessity require the service. Weirton Ice and Coal Supply Co. v. Public Service Commission, 161 W.Va., 240 S.E.2d 686 (1977). The Commission has interpreted this requirement to mean that the applicant must show financial ability, experience and fitness, and that the public convenience and necessity require the service. Ford Bros., Inc., M.C. Case No. 18152, April 9, 1981. The applicant must produce public witnesses to testify that the proposed service is needed in the area of application. Harless Excavating Co., M.C. Case No. 21256, April 23, 1982. In considering such an application, the Commission must take into account the quality of existing service as a controlling factor in its decision to grant or deny a common carrier certificate application. W.Va. Code §24A-2-5(a).

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<sup>3</sup> T&R obtained its Commission certificate of need by Commission Order approving a transfer of certificate from PKC Environmental Services, Inc. on September 13, 2005, Case No. 05-0236-SWF-PC. T&R's monofill was permitted by the DEP effective as of February 7, 2007. See T&R Exh. 10, Hr. Tr. p. 90.

<sup>4</sup> Charles H. Pase holds a certificate of need to operate a tire storage facility for shredded rubber and a Class D-1, demolition disposal site, issued by the Commission in 93-0841-SWF-C, Commission Order March 24, 1994.



T&R's financial fitness, experience and general fitness are not at issue. Thus, the Commission will address T&R's evidence relating to the adequacy of WVTD's existing service, and how that service should impact this case. T&R addressed the quality of existing service by presenting witness testimony of three witnesses. Mr. Winn of Elkins Fordland stated that Elkins Fordland experienced delays leading to large tire accumulation when it previously received tire collection service from WVTD. Hr. Tr. pp. 17-19. Elkins Fordland preferred T&R's service as reliable and because T&R picks up its tires on a regular schedule, without the need for a phone call. Hr. Tr. pp. 16-19, 22-26.

T&R also presented the testimony of Mr. Wymer of Wholesale Tire. Wholesale Tire received service from WVTD prior to February 2001, but found that service to be inconvenient because WVTD asked it to collect tires from all of its outlying facilities in one location, and never offered a regular collection schedule. Wholesale Tire has used T&R's collection and transportation service for approximately three years. T&R travels to all of Wholesale Tire's outlying locations to collect tires and does so on a regular schedule. Hr. Tr. pp. 38-43.

Both Mr. Winn and Mr. Wymer stated that if T&R raised its rates for waste tire collection service, their businesses would shop around for the lowest rate available. Hr. Tr. pp. 28-29; 45-46.

T&R also presented the testimony of Mr. Joseph of the DEP who discussed the hazards posed by accumulated waste tires and stated that the State continues efforts to increase proper disposal of waste tires. T&R has assisted the DEP during its once-a-year free tire disposal day, mainly by accepting the waste tires at its monofill. Mr. Joseph stated that on the occasions when he has used T&R instead of WVTD for tire collection service, the reason has been location, not quality of service. Hr. Tr. pp. 63-75.

In consideration of 1) the distinct specialized service that T&R proposes, and 2) the Legislature singling out waste tires as a source of particular risk to public health, safety and welfare from disease or fire as well as the source of environmental, economic and societal nuisance and damage, the Commission concludes that the quality of WVTD's existing service while an important consideration factor, will not be a controlling factor in this decision. Even if WVTD is providing satisfactory statewide service in a timely manner, WVTD is not authorized to transport the tires to T&R's certificated monofill, and, in view of the State's public policy to devote maximum resources to the proper and efficient disposal of waste tires, there is a public policy need that cannot be satisfied by WVTD. The public witness testimony presented by T&R showed that the proposed service will further the State's goal of expeditious means and methods for effecting the disposal of waste tires; therefore T&R is not required to demonstrate that WVTD's current service is inadequate.

T&R raised the issue of WVTD fitness in this case and that issue was also a subject of T&R's Exceptions. T&R argues that WVTD's fitness is questionable because it relies on leased trailers and contract haulers to provide its service but fails to obtain Commission consent and approval of the leases and contract. Exceptions pp. 11-14. In the North Marion case, the ALJ relied on WVTD's use of leased trailers and contract haulers as evidence that WVTD was unable "satisfactorily to pick up all the waste tires in the State for storage at the monofill[.]" The Commission reads this portion of the Recommended Decision, however, as a means to scold WVTD for failing to file for prior Commission approval of its leasing and hiring arrangements, rather than as grounds for concluding that its manner of providing service was unacceptable. See North Marion, July 20, 2004 Recommended Decision, p. 16, Conclusion of Law No. 3.

In the Exceptions, T&R asserted that WVTD has continued its illegal practices since the 2005 North Marion decision. T&R referred to WVTD witness Kincaid's testimony regarding vehicle and trailer leases, and stated that ownership of WVTD changed hands from Mr. Carl Graybeal's children to Carl Graybeal without Commission approval. The ALJ dismissed T&R's lack of fitness points on grounds that T&R should have subpoenaed Mr. Graybeal and did not, and on a determination that prior transcript testimony was not relevant to the decision in this case. Given the Commission's decision to grant T&R a certificate, there is no need to resolve the ALJ's handling of the fitness issue with respect to WVTD.

### *Conclusion*

Based on all of the foregoing and the evidentiary record in this proceeding, the Commission will grant T&R's Exceptions and issue T&R a common carrier certificate of convenience and necessity to provide specialized service in the transportation of waste tires or scrap tires and/or tire-derived materials from commercial establishments statewide to T&R's monofill for used tires located at 710 Grass Run Road, Route 119/19, Lewis County, and/or other relevant locations for proper handling, processing, beneficial re-use, and/or disposal, except any monofills in Nicholas County, West Virginia. The certificate application provided that the rates are negotiable.

### **FINDINGS OF FACT**

1. T&R seeks a certificate of convenience and necessity to operate as a common carrier by motor vehicle in specialized service in the transportation of waste tires or scrap tires and/or tire-derived materials from commercial establishments statewide to T&R's monofill for used tires located at 710 Grass Run Road, Route 119/19, Lewis County, and/or other relevant locations for proper handling, processing, beneficial re-use, and/or disposal, except any monofills in Nicholas County, West Virginia. The certificate application provided that the rates are negotiable. See July 22, 2008 filing.

2. WVTD is an intervenor in this case and objects to the issuance of the requested certificate to T&R. See July 15, 2008 Petition to Intervene.
3. T&R complied with the notice requirements to publish notice of its certificate application statewide. See Affidavits of Publication filed December 9, 2008.
4. The Commission has granted only two common carrier certificates to provide tire removal service. The first was statewide authority issued to WVTD in 2001 to collect and transport waste tires to its own monofill. See West Virginia Tire Disposal, Inc. M.C. Case No. 30539-00-C, Commission Order August 28, 2001. The second was North Marion Tire Recyclers, Inc., Case No. 03-1913-MC-C, Commission Order March 10, 2005, adopting Recommended Decision issued July 20, 2004.
5. WVTD is only authorized to transport tires to its own monofill in Nicholas County and there are two other tire monofills in the state including T&R's facility in Lewis County and the Charles H. Pase tire monofill in Preston County.
6. T&R's monofill is certificated by this Commission and permitted by the DEP to receive 9,999 tons of tires per month, and currently receives approximately 1,000 tons of tires per month. See Case No. 05-0236-SWF-PC; Hr. Tr. pp. 90, 93; T&R Exh. 10.
7. At the January 8, 2009 hearing in this matter, T&R witness Mr. Winn of Elkins Fordland stated that Elkins Fordland experienced delay leading to large tire accumulation when it previously received tire collection service from WVTD. Hr. Tr. pp. 17-19. Elkins Fordland preferred T&R's service as reliable and because T&R picks up its tires on a regular schedule, without the need for a phone call. Hr. Tr. pp. 16-19, 22-26.
8. T&R witness Mr. Wymer of Wholesale Tire stated that Wholesale Tire received service from WVTD prior to February 2001, but found that service to be inconvenient because WVTD asked it to collect tires from all of its outlying facilities in one location, and never offered a regular collection schedule. Wholesale Tire has used T&R's collection and transportation service for approximately three years. T&R travels to all of Wholesale Tire's outlying locations to collect tires and does so on a regular schedule. Hr. Tr. pp. 38-43.
9. Both Mr. Winn and Mr. Wymer stated that if T&R raised its rates for waste tire collection service, their businesses would shop around for the lowest rate available. Hr. Tr. pp. 28-29; 45-46.
10. T&R witness Mr. Joseph of the DEP discussed the hazards posed by accumulated waste tires and stated that the State continues efforts to increase proper disposal of waste tires. T&R has assisted the DEP during its once-a-year free tire disposal day, mainly by accepting the waste tires at its monofill. Mr. Joseph stated that on the occasions

when he has used T&R instead of WVTD for tire collection service, the reason has been location, not quality of service. Hr. Tr. pp. 63-75.

11. By Recommended Decision issued March 26, 2009, the ALJ ruled that T&R had not satisfied its burden in this case because its public witnesses did not demonstrate that existing service is inadequate.

12. The Recommended Decision stated that no statute, order or regulation supported T&R's position that need for its service exists by virtue of the fact that no specialized motor carrier has authority to transport waste tires to T&R's monofill. The ALJ also rejected T&R's efforts to establish that WVTD is currently operating unlawfully and held that T&R's exhibits introduced to support this argument should be accorded no weight because T&R did not subpoena the owner of WVTD, and other testimony was irrelevant.

13. T&R filed Exceptions arguing that because it seeks to provide a "specialized service," the ALJ applied an incorrect legal standard to its application. See April 10, 2009 Exceptions. T&R stated that the ALJ did not apply the correct legal criteria to its application.

14. WVTD responded that the ALJ applied the proper, long-standing legal standards to the case. See April 17, 2009 Response to Exceptions.

### **CONCLUSIONS OF LAW**

1. W.Va. Code §24A-2-5(a) governs the grant of applications for common carrier by motor vehicle certificates of convenience and necessity.

2. The common carrier certificate at issue in this case pertains to waste tire collection, a subject of much interest and concern to the West Virginia Legislature. In fact, the Legislature has passed into law several statutes to further the state's policy to devote resources to abandoned waste tire pile clean up as well as proper disposal of newly-generated waste tires. See W.Va. Code §§22-15A-1 *et seq.*; 22-15A-8; 22-15-21.

3. Chapter 24A of the West Virginia Code delegates the issuance of common carrier certificates of convenience and necessity to the Commission. W.Va. Code §§24A-2-3; 24A-2-5.

4. State law clearly states it is in the public interest to ensure that adequate and sufficient resources are devoted to the timely and proper collection and disposal of waste tires and the Commission deems its regulation of the proper disposal of waste tires to be an important aspect of its authority.

5. The Commission's prior specialized transportation certificate decisions arose from the Commission's efforts to conform to the Legislature singling out this important public interest.

6. Whereas the WVTD case established that tire removal service is a specialized service *vis-a-vis* solid waste motor carrier service, the decision did not remove the established legal standards for issuance of a common carrier certificates (as summarized by the ALJ on pp. 11-12 of the Recommended Decision in this case) from the Commission's evaluation of a motor carrier application seeking to provide the same tire removal service as an already certificated motor carrier.

7. North Marion introduced a policy that collection of waste tires for beneficial use (landfill cover and cell construction) satisfies a separate need for tire collection service than does collection of waste tires for a monofill. The North Marion decision likewise did not remove the applicability of established common carrier certificate legal standards when one applicant seeks to provide the same service as an already certificated carrier.

8. The North Marion decision established that one carrier's waste tire collection service may not be the same as another's, even when comparing statewide authority to an application for statewide authority. Therefore, North Marion is helpful in evaluating the need for the transportation service. In North Marion, the distinction was disposal for a beneficial use.

9. In this case, the Commission must determine whether T&R's distinct destination for waste tires constitutes a substantive distinction to justify an analysis of the North Marion criteria together with the established legal standards. Under this analysis, the Commission first determines whether the applicant's service would be identical to the certificated protesting carrier's service.

10. T&R will offer a service distinct from WVTD. It does not make sense for a certificated and permitted tire monofill solid waste facility to have no certificated common carrier that is authorized to collect tires and bring them to the monofill. While WVTD argued that it can and does collect waste tires statewide, the fact remains that it may only transport those tires to its own facility in Nicholas County. T&R's facility in Lewis County does not receive any tires collected by a certificated motor carrier because there is no carrier with authority to transport waste tires to its location.

11. In view of the state's public policy to devote resources to proper tire disposal, the difference in tire destinations is indeed a substantive distinction and T&R is proposing a distinct waste tire collection and transportation service from that provided by WVTD, to the same extent that beneficial use of waste tires for shredded cover and cell construction constituted a distinct service in North Marion.

12. The ALJ accurately set forth the common carrier certificate requirements of West Virginia law applicable to *unspecialized* applicants to provide common carrier solid waste collection and transportation service. See W.Va. Code §24A-2-5(a). Those applicants have the burden to establish that the public convenience and necessity require the service. Weirton Ice and Coal Supply Co. v. Public Service Commission, 161 W.Va., 240 S.E.2d 686

(1977). The Commission has interpreted this requirement to mean that the applicant must show financial ability, experience and fitness, and that the public convenience and necessity require the service. Ford Bros., Inc., M.C. Case No. 18152, April 9, 1981. The applicant must produce public witnesses to testify that the proposed service is needed in the area of application. Harless Excavating Co., M.C. Case No. 21256, April 23, 1982. In considering such an application, the Commission must take into account the quality of existing service as a controlling factor in its decision to grant or deny a common carrier certificate application. W.Va. Code §24A-2-5(a).

13. In consideration of the distinct specialized service that T&R proposes, and the Legislature singling out waste tires as a source of particular risk to public health, safety and welfare from disease or fire as well as the source of environmental, economic and societal nuisance and damage, the Commission concludes that the quality of WVTD's existing service, while an important consideration factor, will not be a controlling factor in this decision.

14. Even if WVTD is providing satisfactory statewide service in a timely manner, WVTD is not authorized to transport tires to T&R's certificated monofill, and, in view of the State's public policy to devote maximum resources to the proper and efficient disposal of waste tires, there is a public policy need that cannot be satisfied by WVTD.

15. The public witness testimony presented by T&R showed that the proposed service will further the State's goal of expeditious means and methods for effecting the disposal of waste tires; therefore, T&R is not required to demonstrate that WVTD's current service is inadequate.

16. Given the Commission's decision to grant T&R a certificate, there is no need to resolve the ALJ's handling of the fitness issue with respect to WVTD.

17. The Commission should grant T&R's Exceptions and issue T&R its requested certificate of convenience and necessity.

### **ORDER**

IT IS THEREFORE ORDERED that T&R's Exceptions to the March 26, 2009 Recommended Decision in this case are granted.

IT IS FURTHER ORDERED that T&R's application for a certificate of convenience and necessity to provide specialized service in the transportation of waste tires or scrap tires and/or tire-derived materials from commercial establishments statewide to T&R's monofill for used tires located at 710 Grass Run Road, Route 119/19, Lewis County, and/or other relevant locations for proper handling, processing, beneficial re-use, and/or disposal, except any monofills in Nicholas County, West Virginia, is hereby granted as P.S.C. M.C. Certificate No. F-7525. The certificate application provided that the rates are negotiable.

IT IS FURTHER ORDERED that T&R file its common carrier tariff within thirty days of the date of this Order.

IT IS FURTHER ORDERED that upon entry hereof, this case shall be removed from the Commission docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

A True Copy, Teste:

  
Sandra Squire  
Executive Secretary

JML/klm  
080877ca.wpd





# West Virginia Weights & Measures

570 MacCorkle Avenue, West

Saint Albans, WV 25177

(304) 722-0602 Fax: (304) 722-0605

Web Page: www.wvlabor.org email: weights@wv.gov



## Device Detail

**Insp Date:** 5/28/2025 **Business ID:** 020069  
**Business:** TYREX RESOURCES, LLC  
 710 Grass Run Rd.

Weston, WV 26452

**Inspection:** M2001817  
**Store ID:**  
**Phone:** 304-269-0091  
**Supervisor:** 19 Thomas Bell  
**Reason:** Reinspection

**Make:** BTEK  
**Model:** BS7010200FESD  
**Serial:** 20110

**Capacity:** 200000  
**Class:** III L  
**Approaches:** Good  
**Deck Clearance:** Sufficient  
**Indicator Model #:** IQ-710  
**Indicator Seal #:** 1467261  
**Audit Count:** N/A

**Type:** Vehicle - Railroad Scale  
**Subtype:** 4 Section  
**Insp Type:** Acceptance  
**Loc:** TRUCK SCALE  
**Units:** lbs  
**NTEP:** Yes  
**Pit Clean:** Yes  
**Platform Size:** 10 X 70  
**Indicator Serial #:** 1361900077  
**Service Co Present:** Yes  
**Audit Date:** N/A

**Results:** Approved  
**Seal #:** 1511013, 1511104  
**RFA #:** n/a  
**d:** 20  
**COC:**  
**Pit Dry:** No  
**Indicator Name:** RICE LAKE  
**Indicator Capacity:** 200000  
**Service Co Name:** Budd

Type	Name	Inc/Base	Actual	Display	Err	Tol	Res	Notes
Test	Zero	0	0	0	0	10	Pass	
Test	Shift	0	25000	25020	20	30	Pass	Section 1
Test	Shift	0	25000	24980	-20	30	Pass	Section 2
Test	Shift	0	25000	25000	0	30	Pass	Section 3
Test	Shift	0	25000	25000	0	30	Pass	Section 4
Test	Shift Range	0	25000		40	60	Pass	
Test	Zero	0	0	0	0	10	Pass	
Test	Shift	0	25000	24980	-20	30	Pass	Section 4
Test	Shift	0	25000	25020	20	30	Pass	Section 3
Test	Shift	0	25000	25000	0	30	Pass	Section 2
Test	Shift	0	25000	25020	20	30	Pass	Section 1
Test	Shift Range	0	25000		40	60	Pass	
Test	Zero	0	0	0	0	10	Pass	
Test	Strain Load	38180	25000	63200	20	30	Pass	Enter Actual Weight
Test	Decreasing Load	0	25000	25020	20	30	Pass	
Test	Zero	0	0	0	0	10	Pass	
Test	Shift Decrease	0	13000	13020	20	20	Pass	Section 1
Test	Shift Decrease	0	13000	13020	20	20	Pass	Section 2
Test	Shift Decrease	0	13000	13000	0	20	Pass	Section 3
Test	Shift Decrease	0	13000	13020	20	20	Pass	Section 4
Test	Shift Decrease	0	13000		20	40	Pass	
Test	Shift Range 2	0	13000		0	10	Pass	
Test	Zero	0	0	0	0	10	Pass	

*Inspector*  
 Inspector

*Greg Johnson*  
 Acknowledged Receipt : Greg Johnson

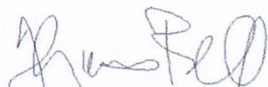


## Device Detail

Test	Shift Decrease	0	13000	13020	20	20	Pass	Section 4
Test	Shift Decrease	0	13000	13000	0	20	Pass	Section 3
Test	Shift Decrease	0	13000	13020	20	20	Pass	Section 2
Test	Shift Decrease	0	13000	13020	20	20	Pass	Section 1
Test	Shift Range 2	0	13000		20	40	Pass	
Test	Zero	0	0	0	0	10	Pass	

## Notes:

RICELAKE MOD.710  
SER.1361900077  
PRINTER  
EPSON MOD.M66SA  
SER.A8D0026080  
CLC 30 TONS



Inspector



Acknowledged Receipt : Greg Johnson