

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

MAR 14 2013

IN THE MATTER OF THE )  
NOTICE OF VIOLATION & ORDER )  
ISSUED TO WYOMING TIRE, INC. )

Jim Ruby, Executive Secretary  
Environmental Quality Council  
DOCKET NO. **12-5206A**

ORDER APPROVING ADMINISTRATIVE ORDER ON CONSENT  
AND DISMISSING REQUEST FOR HEARING

Respondent Wyoming Department of Environmental Quality, Solid & Hazardous Waste Division (DEQ) issued Notice of Violation (NOV) & Order No. **5026-12** dated August 14, 2012 to Petitioner Wyoming Tire, Inc. Wyoming Tire, Inc. timely filed a request for hearing before the Wyoming Environmental Quality Council (EQC) to contest the August 14, 2012 DEQ Order. Wyoming Tire, Inc. and the DEQ are the only parties in this contested case. On March 1, 2013, prior to the final evidentiary hearing, the DEQ, with Wyoming Tire, Inc.'s signed consent, filed an Administrative Order on Consent (AOC) along with a Motion to Approve Administrative Order on Consent and Dismiss Request for Hearing. The AOC would supersede and replace the unilateral DEQ Order dated August 14, 2012 and thereby dispose of the need for the hearing Wyoming Tire, Inc. requested in this case to contest that unilateral Order. Chapter 1, Section 11 of the DEQ Rules of Practice & Procedure provides for disposition of contested cases by consent order upon approval of the EQC. The EQC having reviewed the AOC and motion and being fully advised in the premises,

IT IS HEREBY ORDERED that:

- 1) The referenced Administrative Order on Consent filed March 1, 2013 is approved and supersedes and replaces the unilateral DEQ Order dated August 14, 2012 that DEQ issued to Wyoming Tire, Inc. in connection with Notice of Violation No. **5026-12**; and
- 2) Wyoming Tire, Inc.'s Request for Hearing to contest the unilateral DEQ Order dated August 14, 2012 is dismissed.

Dated this 14 day of March, 2013.



Tom Coverdale, Chairman  
Environmental Quality Council  
Room 1714, Herschler Building, 1<sup>st</sup> Floor West  
122 W. 25<sup>th</sup> Street  
Cheyenne, WY 82002  
Phone: 307-777-7170  
Fax: 307-777-613

**CERTIFICATE OF SERVICE**

I, Jessica Brown, certify that at Cheyenne, Wyoming, on the 18<sup>th</sup> day of March, 2013, I served a copy of the foregoing **ORDER APPROVING ADMINISTRATIVE ORDER ON CONSENT & DISMISSING REQUEST FOR HEARING** by electronic mail to the following:

Todd Parfitt  
Director, DEQ  
[Todd.Parfitt@wyo.gov](mailto:Todd.Parfitt@wyo.gov)

Mike Barrash  
Asst. Attorney General  
[Mike.Barrash@wyo.gov](mailto:Mike.Barrash@wyo.gov)

Carl Anderson, Administrator  
Solid and Hazardous Waste Division  
[Carl.Anderson@wyo.gov](mailto:Carl.Anderson@wyo.gov)

and also by United States Mail, postage pre-paid, addressed as follows:

Wyoming Tire, Inc.  
6925 Cactus Lane  
Casper, WY 82604

Jessica Brown

Jessica Brown, Office Assistant  
Environmental Quality Council  
122 W. 25<sup>th</sup>, Rm. 1714  
Herschler Bldg.  
Cheyenne, WY 82002  
Phone: 307-777-7170  
FAX: 307-777-6134



**FILED**

MAR 01 2013

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING**

Jim Ruby, Executive Secretary  
Environmental Quality Council

IN THE MATTER OF THE	)	
ADMINISTRATIVE ORDER ON CONSENT	)	
ISSUED TO:	)	DOCKET NO. 5026-12
WYOMING TIRE, INC.	)	
6925 Cactus Lane	)	
Casper, WY 82604	)	

**ADMINISTRATIVE ORDER ON CONSENT**

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ), with consent by Wyoming Tire, Inc., issues this Administrative Order on Consent (AOC) to replace the Order issued with Notice of Violation (NOV) No. 5026-12, dated August 14, 2012, relating to Wyoming Tire, Inc.'s scrap tire facility (the facility) located at 6925 Cactus Lane, Casper, Wyoming. **For purposes of this AOC, one (1) "Passenger Tire Equivalent" (PTE) is the equivalent of one passenger or light truck tire.** Pursuant to W.S. § 35-11-701(c)(i), the DEQ orders as follows:

1. Within **thirty (30) days** after the date Wyoming Tire, Inc. consents to this AOC, Wyoming Tire, Inc. shall establish an Emergency Response Plan (ERP) as set forth in **Attachment A**. In the ERP Wyoming Tire shall provide that:
  - a. Communication equipment shall be maintained at the facility, to ensure that the operator can contact local fire authorities in the event of a fire;
  - b. Adequate equipment to aid in the control of fires shall be provided and maintained at the facility at all times. At a minimum the following items shall be maintained onsite and in working order: one dry chemical fire extinguisher, one 2.5 gallon water extinguisher, one round point shovel, and one square point shovel. One dry chemical fire extinguisher with a minimum rating of 4A:40BC shall be carried on each piece of fuel powered equipment used to handle scrap tires or shreds;
  - c. An adequate water supply shall be available for use by the local fire authority, such as four (4) working fire hydrants which are part of the City of Casper public water distribution system and located around the facility to effectively respond to a tire fire; and

- d. The local fire authority has the option to require additional tools and equipment for fire control and the protection of life and property.

Wyoming Tire shall maintain a copy of the ERP at the facility and forward a copy of the ERP to the local fire authority. Wyoming Tire shall revise the ERP as necessary to reflect changes in operations of the waste tire facility within thirty (30) days of any such changes.

2. As of the date of its consent to this AOC, Wyoming Tire, Inc. has whole scrap tires and/or shreds totaling approximately nine hundred thousand (900,000) PTEs (amounting to **45,500 cubic yards** total) stored at the facility.
3. Not later than **September 30, 2013**, Wyoming Tire, Inc. shall have widened fire lanes along the South and West property boundaries to a minimum width of fifty (50) feet by removal and proper disposal of the scrap tires and shreds at a DEQ approved site in Wyoming or authorized out-of-state facility. Once the fifty (50) foot minimum fire lane requirement has been met, the fire lanes must remain at least fifty-feet wide, unobstructed, and in passable condition.
4. Wyoming Tire, Inc. shall remove accumulated whole scrap tires and tire shreds from the site in accordance with the following schedule and shall complete a tire manifest (**Attachment B**) for each shipment:
  - a. Wyoming Tire, Inc. shall remove all whole scrap tires from the facility by **October 31, 2013**, except for not more than a total of **thirty-two hundred (3,200) cubic yards** of whole scrap tires (**approximately 64,000 PTEs**) which may be stored at the facility as part of Wyoming Tire, Inc.'s scrap tire business. After **October 31, 2013**, while this AOC remains in effect, Wyoming Tire, Inc. shall not have more than a total of **thirty-two hundred (3,200) cubic yards** of whole scrap tires present at the facility at any one time.
  - b. Wyoming Tire, Inc. shall remove all shredded scrap tires from the facility by **October 31, 2013**. After **October 31, 2013**, while this AOC remains in effect, Wyoming Tire, Inc. shall not have any scrap tire shreds present at the facility.
  - c. Whole scrap tires and tire shreds shall be removed to a DEQ approved site or authorized out-of-state facility.
  - d. Wyoming Tire, Inc. shall submit **quarterly** reports to DEQ, documenting quantities of shreds removed from the facility in cubic yards and in number and

size of truckloads, and quantities of whole scrap tires removed from the facility in numbers of tires and in cubic yards and in number and size of truckloads, and also the dates and destinations of each truckload of whole scrap tires and tire shreds removed from the facility.

5. Beginning on the date Wyoming Tire, Inc. consents to this AOC and while this AOC remains in effect:
  - a. Wyoming Tire, Inc. shall not accept or generate any more scrap tire **shreds** at the facility.
  - b. Acceptance of any more **whole** scrap tires shall not relieve Wyoming Tire, Inc. of its obligation under this AOC to continually and measurably reduce the quantity of whole scrap tires present at the facility down to not more than a total of **thirty-two hundred (3,200) cubic yards** by **October 31, 2013**.
  - c. Wyoming Tire, Inc. shall submit **quarterly** reports to DEQ, documenting quantities in numbers / cubic yards / number of truckloads / size of truckloads of any whole scrap tires accepted at the facility, and the dates and sources of whole scrap tires accepted at the facility.
6. Wyoming Tire, Inc. may not accept more than one scrap tire for each tire sold as part of its **used tire sales business**. All tires not meeting the criteria set forth in W.S. 31-5-956(f) (**copy attached**) are scrap tires.
7. To provide minimal evidence of actual used tire resale activities, at least twenty five percent (25 %) of tires in the resale area shall be size and type sorted to allow reasonable customer and/or DEQ inspection.
8. Not later than **February 28, 2014**, Wyoming Tire, Inc. shall submit to DEQ a complete permit renewal application addressing all requirements listed under SWRR, Chapter 6, Section 2(e) and (h). The application shall include, but not be limited to, the following:
  - a) Documentation of adequate financial assurance based upon the volumes of scrap tires and shreds described in the facility's solid waste permit renewal application, as required under SWRR, Chapter 7, Section 2(b);
  - b) A current copy of the recordkeeping form or forms that will be used to document the source, volume, and dates for which scrap tires are received for storage at the facility and documentation of the volumes, dates, and

destinations of scrap tires and tire shreds removed from the facility to an approved location. The recordkeeping forms shall also include a description of the tire sizes, and

- c) A general facility plot plan describing the future operation of the facility and accurately demonstrating the requirements of SWRR, Chapter 6, Section 2(a)(v), including the location and size of all tire piles and tire shred piles, fire lanes, and buffer zones.

9. The permit renewal application shall be submitted to:


Patrick Troxel  
Solid Waste Permitting & Corrective Action  
WDEQ/SHWD Lander Field Office  
510 Meadowview Drive  
Lander, WY 82520


10. The DEQ will prepare a written review of the renewal application. If the DEQ determines the application is inadequate, Wyoming Tire, Inc. shall submit an amended application correcting all noted deficiencies within sixty (60) days from the date of the review.

11. This AOC may be modified only by written agreement signed by both parties and approved by the EQC.

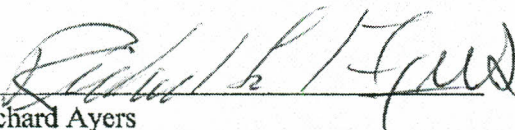
12. This AOC shall remain in effect until **July 31, 2014** or DEQ's issuance of a solid waste management facility permit to Wyoming Tire, Inc., whichever occurs first.

Dated this 28<sup>th</sup> day of February, 2013.

  
\_\_\_\_\_  
Todd Parfitt, Director  
Wyoming Dept. of Environmental Quality

  
\_\_\_\_\_  
Carl Anderson, Ph.D., Administrator  
Solid and Hazardous Waste Division

**CONSENT TO AOC BY WYOMING TIRE, INC.:**

  
\_\_\_\_\_  
Richard Ayers  
President, Wyoming Tire Inc.

2-25-13  
\_\_\_\_\_  
Date of Consent by Wyoming Tire, Inc.

**WASTE TIRE FACILITY  
EMERGENCY RESPONSE PLAN**

<b>I. GENERAL INFORMATION</b> (please print or type)							
Facility Name:							
Facility Mailing Address:							
City:		County:		State:		Zip:	
Facility Operator's Name:							
Mailing Address:							
City:		County:		State:		Zip:	
Property Owner's Name (if different from operator):							
Mailing Address:							
City:		County:		State:		Zip:	

<b>II. EMERGENCY CONTACT LIST</b>		
List the names and telephone numbers of the persons and appropriate agencies to be contacted in case of emergency:		
	Name	Phone
Facility Owner		
Facility Operator		
Local Fire Authority		
Local Police Department		
Wyo. DEQ / Solid & Hazardous Waste Division		
Emergency Response Team		
Any additional numbers that may be needed		

<b>III. EQUIPMENT</b>	
Emergency Response Equipment Available:	
<input type="checkbox"/> 1. Minimum equipment required:	
<input type="checkbox"/> One, dry chemical fire extinguisher	Weight: _____
<input type="checkbox"/> One, 2½ gallon water extinguisher	
<input type="checkbox"/> One, pike pole at least 10 feet in length	
<input type="checkbox"/> One round point and one square point shovel	
OR	
<input type="checkbox"/> 2. Equipment in lieu of the list above (attach fire authority approved requirements):	





# Waste Tire Manifest

<b>WASTE TIRE HAULER</b>					
Date: Mo	Day	Yr	Hauler Registration Number:	Manifest Number:	
Business Name:			Vehicle Decal Number:		
Street Address:		City:	State:	Zip Code:	
Business Phone Number:		E-mail Address:	Driver:		
(If applicable) Contract/Comm on Carrier Name & USDOT #:					

<b>WASTE TIRE GENERATOR INFORMATION</b>	
Pickup Business or Generator Name:	
Street Address/City/State/Zip Code:	Generator Registration Number:
	Business Phone Number:
Check box if this is an illegal tire pile/dump or private party (use fields above to enter landowner information and property location/description): <input type="checkbox"/>	
Amount of Waste Tires Picked Up (REQUIRED):	Tire Diameters - # of tires OR weight of tires in tons (OPTIONAL):
# of tires: _____	Passenger/
OR	Light Truck: _____ Medium Duty: _____
Tons of tires: _____	Heavy Duty: _____ Other: _____
NOTE: The amount accounted for in Tire Diameters should equal the amount in Amount of Waste Tires Picked Up	
Hauler Signature:	Generator Signature:

NOTE: A separate manifest must be completed for each pick-up of waste tires at each Waste Tire Generator.

<b>ADJUSTMENT TABLE (IF APPLICABLE)</b>
# of Tires OR Tons of Tires Removed from This Load for Re-use or Salvage: _____
<b>TOTAL AMOUNT OF WASTE TIRES REMAINING:</b> # of tires: _____ OR Tons of tires: _____

<b>TOTAL AMOUNT OF TIRES IMPORTED FROM OUT OF STATE (IF APPLICABLE)</b>
# of Tires OR Tons of Tires in This Load from Out of State: # of tires: _____ OR Tons of tires: _____

<b>WASTE TIRE DESTINATION FACILITY</b>	
Destination Business Name:	Amount of Waste Tires Delivered
Street Address/City/State/Zip Code:	# of tires: _____
Facility Registration Number:	OR
Facility Decal Number:	Tons of tires: _____
Business Phone Number:	
Check type(s) of facility: Hauler <input type="checkbox"/> Processor/End-User <input type="checkbox"/>	
Disposal <input type="checkbox"/> Collection <input type="checkbox"/> Retailer/Wholesaler <input type="checkbox"/>	
Hauler Signature:	Destination Facility Signature:

NOTE: A separate manifest must be completed for each drop-off of waste tires at each Waste Tire Destination Facility.



West's Wyoming Statutes Annotated Currentness

Title 31. Motor Vehicles (Refs & Annos)

Chapter 5. Regulation of Traffic on Highways

▣ Article 9. Equipment

▣ Division 3. . Other Equipment

→ → § 31-5-956. Tires; restriction of travel under hazardous conditions; penalties

(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one (1) inch thick above the edge of the flange of the entire periphery.

(b) No person shall operate or move on any highway any motor vehicle, trailer or semitrailer having any metal tire in contact with the roadway.

(c) No tire on a vehicle moved on a highway shall have on its periphery any protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use:

(i) Implements of husbandry with tires having protuberances which will not injure the highway;

(ii) Tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid;

(iii) Pneumatic tires having studs designed to improve traction without materially injuring the surface of the highway. Pneumatic tires having studs must be approved by the superintendent.

(d) The superintendent and local authorities in their respective jurisdictions may issue special permits authorizing the operation upon a highway of tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this section.

(e) When the superintendent or his authorized representative determines that travel is sufficiently hazardous due to snow, ice or other conditions travel on a highway may be restricted to use only by motor vehicles utilizing adequate snow tires or tire chains, motor vehicles that are all-wheel drive vehicles or necessary emergency vehicles as defined in W.S. 31-5-102(a)(ii), including snow plows. The superintendent or his authorized representative may further restrict travel in extremely hazardous conditions to use only by necessary emergency vehicles as defined in W.S. 31-5-102(a)(ii), including snow plows, and those vehicles utilizing tire chains or to

all-wheel drive vehicles utilizing adequate snow tires with a mud and snow or all-weather rating from the manufacturer having a tread of sufficient abrasive or skid-resistant design or composition and depth to provide adequate traction under existing driving conditions. The prohibition or restriction of use shall be effective when signs, including temporary or electronic signs, giving notice thereof are erected upon that portion of the highway, and it shall be unlawful to proceed in violation of the notice. The operator of a commercial vehicle shall affix tire chains to at least two (2) of the drive wheels of the vehicle at opposite ends of the same drive axle when the vehicle is required to utilize tire chains under this subsection. The state highway patrol shall cooperate with the department in the enforcement of any closing or restriction of use under this subsection.

(f) A person shall not operate any vehicle when one (1) or more of the tires in use on that vehicle is in unsafe operating condition or has a tread depth less than four thirty-seconds ( $4/32$ ) inch in the case of tires which are used on the front wheels of a bus, truck or truck tractor, or two thirty-seconds ( $2/32$ ) inch in other cases, measured in any two (2) adjacent tread grooves at three (3) equally spaced intervals around the circumference of the tire but the measurements shall not be made at the location of any tread wear indicator, tie bar, hump or fillet. No vehicle shall be operated on any tire that has fabric exposed through the tread or sidewall.

(g) A person in the business of selling tires shall not sell or offer for sale for highway use any tire which is in unsafe condition or which has a tread depth of less than two thirty-seconds ( $2/32$ ) inch measured as specified in subsection (f) of this section.

(h) This section applies to motorcycles, motor-driven cycles, multipurpose vehicles and mopeds.

(j) Any person who operates a motor vehicle in violation of restrictions imposed by the department or the highway patrol under subsection (e) of this section is guilty of a misdemeanor and upon conviction shall be subject to a penalty of not more than two hundred fifty dollars (\$250.00). Any person who operates a motor vehicle in violation of restrictions imposed by the department or the highway patrol under subsection (e) of this section, where the result of the violation is an incident that causes the closure of all lanes in one (1) or both directions of the highway, is guilty of a misdemeanor and upon conviction shall be subject to a penalty of not more than seven hundred fifty dollars (\$750.00).

(k) As used in this section, "tire chains" means metal chains which consist of two (2) circular metal loops, one (1) on each side of the tire, connected by not less than nine (9) evenly spaced chains across the tire tread and any other traction devices differing from metal chains in construction, material or design but capable of providing traction equal to or exceeding that of metal chains under similar conditions.

#### CREDIT(S)

Laws 1955, ch. 225, § 139; Laws 1965, ch. 25, § 1; Laws 1973, ch. 120, § 1; Laws 1984, ch. 48, § 1; Laws 2007, ch. 34, § 1, eff. Jan. 1, 2008; Laws 2009, ch. 210, § 1, eff. July 1, 2009.

**Codifications:** C.S. 1945, § 60-739; W.S. 1957, § 31-208.