

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment

Waste Tire Fees Amendments
(LAC 33:VII.10505, 10509,10519, 10521, 10535, and 10537) (SW039)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.10505, 10509,10519, 10521, 10535, and 10537 (Log #SW039).

The proposed rule allows the department to collect fees on the sale of all tires instead of just new tires. It adds new definitions, including motor vehicle dealer, and exempts tires weighing over 500 pounds and/or solid tires from the definition of waste tire. A fee of \$1.25 will be collected on recapped or retreaded tires. The rule develops the standards and responsibilities of motor vehicle dealers in regards to the waste tire fee collection. This rule is a result of Act 846 of the 2004 Regular Session of the Louisiana legislature. The basis and rationale for this rule are to ensure proper processing, recycling, marketing, and disposal of waste tires generated in Louisiana.

The Department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the Budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the proposed rule. This report is published in the Potpourri Section of the March 20, 2005, issue of the *Louisiana Register*. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on April 26, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW039. Such comments must be received no later than May 3, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW039. This regulation is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

A. The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

* * *

Motor Vehicle Dealer—any person, business, or firm registered with the state of Louisiana that engages in the commercial sale of new motor vehicles.

* * *

Recapped or Retreaded Tire—any tire that has been reconditioned from a used tire and sold for use on a motor vehicle.

* * *

Sale of a Motor Vehicle—any sale and/or lease of a motor vehicle that would require registration, under the name of the consumer, with the Louisiana Office of Motor Vehicles.

* * *

Tire Dealer—any person, business, or firm that engages in the sale of ~~new~~ tires, including recapped or retreaded tires, for use on motor vehicles.

* * *

Waste Tire—a whole tire that is no longer suitable for its original purpose because of wear, damage, or defect. *Waste tire* does not include a tire weighing over 500 pounds and/or a solid tire.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR 29:2779 (December 2003), amended by the Office of Environmental Assessment, LR 31:**.

§10509. Prohibitions and Mandatory Provisions

A. - G. ...

H. All persons who sell ~~new~~-tires shall retain and make available for inspection, audit, copying, and examination, a record of all tire transactions in sufficient detail to be of value in determining the correct amount of fee due from such persons. The records retained shall include all sales invoices, purchase orders, inventory records, and shipping records pertaining to any and all sales and purchases of tires. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A).

I. Each tire wholesaler shall maintain a record of all ~~new~~-tire sales made to dealers in this state. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A). These records shall contain and include the name and address of each tire purchaser and the number of tires sold to that purchaser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000), amended by the Office of Environmental Assessment, LR 31:**.

§10519. Standards and Responsibilities of Generators of Waste Tires

A. ...

B. Tire dealers must accept from the purchaser, at the time of purchase, one waste tire for every ~~new~~-tire sold ~~from the purchaser of the new tire at the time of purchase~~, unless the purchaser elects to retain the waste tire.

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each ~~new~~-passenger/light truck tire, \$5 waste tire fee upon the sale of each ~~new~~-medium truck tire, and \$10 waste tire fee upon the sale of each ~~new~~-off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. No fee shall be collected on tires weighing more than 500 pounds or solid tires. ~~Tire dealers~~ includes any dealer selling ~~new~~-tires in Louisiana.

D. - E.1. ...

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon sale of each ~~new~~-tire. These fees shall also be collected upon replacement of all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every ~~new~~-tire sold, unless the purchaser elects to retain the waste tire."

F. - J. ...

K. No generator shall allow the removal of waste tires from his place of business by anyone other than an authorized transporter, unless the generator generates 50 or less waste tires per month from the sale of 50 ~~new~~ tires. In this case, the generator may transport his waste tires to an authorized collection or permitted processing facility provided LAC 33:VII.10523.C is satisfied.

L. A generator who ceases the sale of tires at the registered location shall notify the Office of ~~Management and Finance~~~~Environmental Services~~, ~~Financial Services~~~~Permits~~ Division, within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the tire sale and monthly report records.

M. Generators of waste tires shall segregate the waste tires from any usable~~new or used~~ tires offered for sale.

N. - O. ...

P. All generators of waste tires~~Generators other than new tire dealers~~ (e.g., new tire dealers, used tire dealers, salvage yards, and recappers) shall maintain a complete record of purchase invoices, inventory records, and sales invoices for a period of no less than three years. These records shall be open for inspection and/or audit by the administrative authority at all reasonable hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:**.

§10521. Standards and Responsibilities of Motor Vehicle Dealers

A. All existing motor vehicle dealers shall notify the Office of Management and Finance, Financial Services Division, of their existence and obtain an identification number. Notification shall be on a form provided by the Office of Management and Finance, Financial Services Division. Any new motor vehicle dealer shall notify the Office of Management and Finance, Financial Services Division, within 30 days of commencement of business operations.

B. Motor vehicle dealers doing business in the state of Louisiana, who sell new vehicles, shall be responsible for the collection from the consumer of the \$2 waste tire fee for each tire upon the sale of each vehicle that has passenger/light truck tires, the \$5 waste tire fee for each tire upon the sale of each vehicle that has medium truck tires, and the \$10 waste tire fee for each tire upon the sale of each off-road vehicle. No fee is collected on the designated spare tire.

C. Motor vehicle dealers shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management

and Finance, Financial Services Division) to the Office of Management and Finance, Financial Services Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each motor vehicle dealer is required to make a report and remit the fee imposed by this Section and shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of vehicles sold, together with vehicle purchase and sales invoices, and inventory records, for a period of no less than three years. These records shall be made available for inspection by the administrative authority at all reasonable hours.

D. Motor vehicle dealers must provide notification to the public via a sign, made available by the Office of Management and Finance, Financial Services Division, indicating that:

“All Louisiana motor vehicle dealers selling new vehicles are required to collect a waste tire cleanup and recycling fee from the consumer of \$2 for each tire upon the sale of each vehicle that has passenger/light truck tires, \$5 for each tire upon the sale of each vehicle that has medium truck tires, and \$10 for each tire upon the sale of each off-road vehicle. These fees shall also be collected upon replacement of all recall and adjustment tires. No fee shall be collected on the designated spare tire.”

E. The waste tire fee established by R.S. 30:2418 shall be listed on a separate line of the retail sales invoice or buyers order. No tax of any kind shall be applied to this fee.

F. A motor vehicle dealer who ceases the sale of motor vehicles at the registered location shall notify the Office of Management and Finance, Financial Services Division, within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the motor vehicle sales and monthly report records.

G. Motor vehicle dealers, who generate waste tires, shall comply with the manifest requirements of LAC 33:VII.10533.

H. Motor vehicle dealers shall comply with LAC 33:VII.10519.H for all waste tires and waste tire material collected and/or stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:**.

§10535. Fees and Fund Disbursement

A. - A.8. ...

B. Waste Tire Fee upon Promulgation of These Regulations. A waste tire fee is hereby imposed on each ~~new~~ tire sold in Louisiana, to be collected from the purchaser by the tire dealer or motor vehicle dealer ~~from the purchaser~~ at the time of retail sale. The fee shall be \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire. No fee shall be collected on tires weighing more than 500 pounds or solid tires.

C. - D.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality,

Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228 (December 2001), amended by the Office of Environmental Assessment, LR 31:**.

§10537. Enforcement

A. ...

B. Investigations and Audits: Purposes, Notice. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the identity of the persons or parties involved. Upon written request, the results of an investigation shall be given to any complainant who provided the information prompting the investigation and, if advisable, to any person under investigation, if the identity of such person is known. In any cases where a persons selling ~~new~~-tires ~~have~~ has failed to report and remit the waste tire fee to the administrative authority, and the person's records are inadequate to determine the proper amount of fee due, or in any cases(s) where a grossly incorrect report or a report that is false or fraudulent has been filed, the administrative authority shall have the right to estimate and assess the amount of the fee due, along with any interest accrued and penalties. The burden to demonstrate to the contrary shall rest upon the audited entity.

C. - E.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 28:1954 (September 2002), amended by the Office of Environmental Assessment, LR 31:**.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

LOG #: SW039

Person

Preparing

Statement: Tony CaseDept.: Environmental QualityPhone: (225) 219-3865Office: Management & Finance

Return

Address: P.O. Box 4303
Baton Rouge, Louisiana 70821

Rule

Title: Waste Tire Fees Amendments
(LAC 33:VII.10505, 10509, 10519,
10521, 10535, and 10537)

Date Rule

Takes Effect: Upon Promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The cost to state or local entities will be determined by how many new motor vehicles are purchased. DEQ has no reliable information as to how many vehicles may be purchased annually by local entities. According to State Purchasing, the state of Louisiana purchased 1,335 one-ton or smaller vehicles in FY 2002, 789 of these vehicles in FY 2004, and has purchased slightly more than 1,000 of these vehicles in FY 05 to date. It is likely that as many as 1,000 to 1,200 of these vehicles would be purchased by the state annually. Therefore, a minimum annual cost to the state each year from these fees would be approximately \$8,000 to \$10,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The revenue collections from the amendments to the waste tire disposal fees are estimated to be \$1.6 million to \$1.8 million for tires on new motor vehicles sales, and \$420,000 for used and retreaded tires. The estimate for used and retreaded tires is considered to be a conservative estimate based on the difference of remittances of registered tire retailers from prior years as compared to remittances of these entities as subject to the fee on used and retreaded tires during the last three months of calendar year 2004. Collection of fees on used and retreaded tires is expected to increase in the future as dealers become compliant with these regulations.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The cost will be determined by the number of new motor vehicles purchased.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is anticipated.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Wilbert F. Jordan, Jr., Assistant Secretary
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

LFO 03/09/2001

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule allows the Department to collect fees on the sale of all tires instead of just new tires. It adds new definitions, including motor vehicle dealer, and exempts tires weighing over 500 pounds and/or solid tires from the definition of waste tire. A fee of \$1.25 will be collected on recapped or retreaded tires. The rule develops the standards and responsibilities of motor vehicle dealers in regards to the waste tire fee collection.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Act 846 of the 2004 Regular Session of the Legislature requires the waste tire disposal fee to be paid on used tires as well as new motor vehicles. These were previously exempt from the waste tire fee.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session
 - (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

Yes. The source of funding will be from the Dedicated Waste Tire Management Fund. The Department receives all revenue and pays for the actual disposal of waste tires generated.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) X Yes. If yes, attach documentation.
- (b) No. If no, provide justification as to why this rule change should be published at this time.

The funds are budgeted to be collected in the Dedicated Waste Tire Management Fund.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 04-05	FY 05-06	FY 06-07
PERSONAL SERVICES _____			
OPERATING EXPENSES _____			
PROFESSIONAL SERVICES _____			
OTHER CHARGES _____			
EQUIPMENT _____			
TOTAL	0	0	0
MAJOR REPAIR & CONSTR.			
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The cost to each state or local entity will be determined by how many new motor vehicles are purchased.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 04-05	FY 05-06	FY 06-07
STATE GENERAL FUND _____			
AGENCY SELF-GENERATED _____			
DEDICATED _____			
FEDERAL FUNDS _____			
OTHER (Specify) _____			
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

This rule is an amendment to implement fees on tire sales that are not currently assessed, and as such there are no significant costs to implement the rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

The proposed rule will not increase workload or paperwork requirements for local government.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

The increase to local government will be affected to the extent of how many new motor vehicles they will purchase.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 04-05	FY 05-06	FY 06-07
STATE GENERAL FUND			
AGENCY SELF-GENERATED	2,108,815	2,108,815	2,108,815
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	2,108,815	2,108,815	2,108,815

*Specify the particular fund being impacted. Waste Tire Management Fund

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The DEQ estimates that revenue would increase \$358,669 annually from waste tire disposal fees collected for used tires, \$62,150 for retreaded tires, and \$1,687,996 for new motor vehicle sales.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

New motor vehicle dealers and used tire dealers will be required to charge consumers for a waste tire disposal fee on all used tires sold as well as all new motor vehicles at the time of sale of a new vehicle.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

No additional income will result from this rule change to any groups. The DEQ receives all revenue and pays for the actual disposal of waste tires generated.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no impact on competition or employment.