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Regulatory and Economic Resources  
Environmental Resources Management  
701 NW 1st Court • 7th Floor  
Miami, Florida 33136-3912  
T 305-372-6600 F 305-372-6893

## NOTICE OF PERMIT ISSUANCE

CERTIFIED MAIL NO. 7010 1870 0000 2685 9402  
RETURN RECEIPT REQUESTED

July 28, 2015

In the matter of an  
Application for Permit by:

Mr. Marcus A. Rivero  
T M Tires Inc.  
5575 NW 36 Avenue  
Miami, Florida 33142

FDEP File No.: 307803-002-WT  
DERM File No.: SW-1761

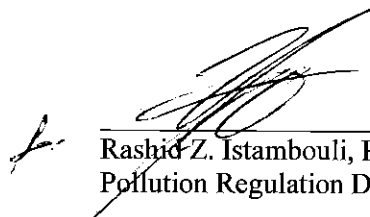
Enclosed is the revised Permit Number 307803-002-WT to operate a Waste Tire Processing Facility regulated under Chapter 62-711, Florida Administrative Code (F.A.C.) which replaces Permit No. 307803-001-WT previously issued to the permittee on October 23, 2012.

Be advised that this version of the permit addresses modifications to specific conditions 5, 15 and 16 in response to the waiver SWVA No. 15-1 granted by the Florida Department of Environmental Protection on June 18, 2015.

Any party to this permit has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Florida Department of Environmental Protection in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty (30) days after this permit is filed with the clerk of the Miami-Dade County Department of Environmental Resources Management.

If you have any questions, please contact Johnny Vega, P.E. of this office at telephone number (305) 372-6600.

Executed in Miami-Dade County, Florida this 28<sup>th</sup> day of July 2015.



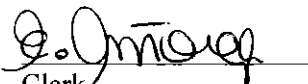
Rashid Z. Istambouli, P.E., Chief  
Pollution Regulation Division

Enclosure(s)

CERTIFICATE OF SERVICE

This is to certify that this NOTICE OF PERMIT ISSUANCE and all copies were mailed before the close of business on 7/28/15 to the listed persons.

FILING AND ACKNOWLEDGMENT: FILED, on this date, pursuant to §120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

  
Clerk

7/28/15  
Date

Enclosure(s): Modified FDEP Permit No. 307803-002-WT

Copies furnished to:

cc: Johnny Vega, P.E., Patti Emad, Francisco Teresa Calleja - DERM  
SW Financial Coordinator – FDEP (via e-mail: Solid.Waste.Financial.Coordinator@dep.state.fl.us)  
Tor Bejnar – FDEP (via e-mail: tor.bejnar@dep.state.fl.us)  
Rafael Robayna – Robayna and Associates, Inc. (via e-mail: RRobayna@Robayna.com)  
Marcus A. Rivero – TM Tires, Inc. (via email: tmtires@aol.com)

DERM File No. SW-1761



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Environmental Resources Management  
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Miami, Florida 33136-3912  
T 305-372-6600 F 305-372-6893

**SOLID WASTE OPERATING PERMIT – WASTE TIRE PROCESSING FACILITY**

**Permit Issued To:** T M Tires Inc.  
5575 NW 36<sup>th</sup> Avenue  
Hialeah, FL 33142

**Permit No.:** 307803-002-WT

**Replaces Permit No.:** 307803-001-WT

**Facility Name:** T M Tires Inc.

**Issuance Date:** July 28, 2015

**Facility Address:** 5555-5557 NW 36<sup>th</sup> Avenue  
Hialeah, Miami-Dade County, Florida

**Expiration Date:** October 23, 2017

**Contact Person:** Mr. Marcus A. Rivero

**Renewal App. Due:** August 23, 2017

**Facility WACS ID No.:** 100092

The Miami-Dade County Department of Regulatory and Economic Resources (RER) – Division of Environmental Resources Management (DERM), under delegation by the Florida Department of Environmental Protection (jointly referred to as the Department, hereafter), hereby issues this permit under the provisions of Chapter 403, Florida Statutes (F.S.), and Chapters 62-4, 62-701, 62-711, Florida Administrative Code (F.A.C.). The above named permittee is hereby authorized to operate the facility shown on the application and approved drawings, plans and other documents on file with the Department, and made a part thereof, and specifically described as follows:

**TO OPERATE:** A Waste Tire Processing Facility under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Chapters 62-4, 62-701 and 62-711. The facility is limited to the storage of no more than 15,000 waste tires as defined in Rule 62-701.200, F.A.C. at any one time.

**LOCATED AT:** 5555-5557 NW 36<sup>th</sup> Avenue, Hialeah, Miami-Dade County, FL  
LATITUDE: 25°49'28.8" N / LONGITUDE: 80°15'18.9" W  
SECTION: 16; TOWNSHIP: 53; RANGE: 41

**IN ACCORDANCE WITH:** the information referenced in Specific Condition #1 of this permit.

**SUBJECT TO:** the General Conditions and Specific Conditions of this permit.

**GENERAL CONDITIONS**

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
3. As provided in Subsections 403.987(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.
4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the state. Only the trustees of the Internal Improvement Trust Fund may express State opinion as to title.

5. This permit does not relieve this permittee from liability for harm or injury to human health or welfare, animal, plant or aquatic life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.
6. The permittee shall at all times properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of this permit and when required by Department rules.
7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
  - a. Have access to and copy any records that must be kept under conditions of the permit;
  - b. Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
  - c. Sample or monitor any substances or parameters at any location reasonable necessary to assure compliance with this permit or Department rules. Reasonable time may depend on the nature of the concern being investigated.
8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
  - a. A description of and cause of non-compliance; and
  - b. The period of non-compliance, including dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the non-compliance. The permittee shall be responsible for any and all damages, which may result and may be subject to enforcement action by the Department for penalties or revocation of this permit.
9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and any other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.111 and 403.73, F.S. Such evidence shall only be used to the extent of is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.
10. The permittee agrees to comply with changes in the Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard.
11. This permit is transferable only upon Department approval in accordance with Rules 62-4.120 and 62-730.300, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.
12. This permit or a copy thereof shall be kept at the work site of the permitted activity.
13. This permit also constitutes:
  - a. Determination of Best Available Control Technology (BACT)
  - b. Determination of Prevention of Significant Deterioration (PSD)
  - c. Certification of compliance with state Water Quality Standard (Section 401, PL 92-500)
  - d. Compliance with New Source Performance Standards
14. The permittee shall comply with the following:
  - a. Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
  - b. The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
  - c. Records of monitoring information shall include:

- i. the date, exact place, and time of sampling of measurements;
  - ii. the person responsible for performing the sampling or measurements;
  - iii. the dates analyses were performed;
  - iv. the person responsible for performing the analyses;
  - v. the analytical techniques or methods used;
  - vi. the results of such analyses.
15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law, which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

### **SPECIFIC CONDITIONS**

1. **Documents Part of This Permit.** The permit application **as finally revised, replaced or amended** in response to the Department's Request(s) for Additional Information are contained in the Department's files and are made a part of this permit. Those documents that make up the complete permit application are listed in Appendix A.

### **Construction Requirements**

[There are no construction requirements for this facility].

### **Operational Requirements**

2. **General Operating Requirements.** The permittee shall operate the facility in accordance with the approved Operation Plan. The Department shall be notified before any changes, other than minor deviations, to the approved Operation Plan are implemented in order to determine whether a permit modification is required pursuant to Rule 62-701.320(4), F.A.C.
3. **Authorized Waste and Material Types.** The facility is authorized to manage only whole Waste Tires as defined in Rule 62-701.200, F.A.C.
4. **Unauthorized Waste Types.** The permittee is not authorized to accept or manage any waste types not listed in specific condition #3. Any unauthorized waste inadvertently received by the facility shall be managed in accordance with the approved Operation Plan.
5. **Maximum Storage Quantities.** The maximum storage quantity at the facility for whole tires, including used tires for re-sale, shall be 15,000 tires in accordance with Rule 62-711.530(2), F.A.C.
6. **Facility Capacity.** If the facility has reached its permitted capacity for storage of waste tires pursuant to specific condition #5 of this permit, the permittee shall not accept additional waste tires until sufficient capacity has been restored.
7. **Storage and Management.** The permittee shall store and manage Waste Tires at the facility pursuant to the following requirements:
- (a) All incoming wastes and materials shall be tipped, processed, and removed off site in accordance with the Department approved designated areas indicated in the permit application documents identified in Appendix A.
  - (b) All Waste Tires shall be stored inside of an enclosed building and in accordance with the applicable Storage Requirements of Rule 62-711.540, F.A.C.
  - (c) No operations involving the use of open flames shall be conducted within 25 feet of a Waste Tire pile in accordance with Rule 62-711.540, F.A.C.
8. **Fire Safety Survey.** Fire protection services for the site shall be assured through notification to local fire protection authorities. A fire safety survey shall be conducted at least annually and the survey report shall be made part of the next quarterly report in accordance with Rule 62-711.540, F.A.C.
9. **Processing Requirements.** At least 75 percent of the whole tires and used tires that are delivered to, or are contained at the waste tire processing facility at the beginning of each calendar year shall be processed and removed for disposal or recycling from the facility during the year, or disposed of at a permitted solid waste management facility in accordance with Rule 62-711.530(3), F.A.C.

10. Putrescible and Unauthorized Wastes. Putrescible waste received with the incoming loads shall be removed for disposal within forty-eight (48) hours. Any other unauthorized waste shall be segregated and transported to an authorized disposal or recycling facility within thirty (30) days of receipt.
11. Hazardous Waste. If any regulated hazardous wastes are discovered to be deposited at the facility, the facility operator shall promptly notify the Department, the person responsible for shipping the wastes to the facility, and the generator of the wastes, if known. The area where the wastes are deposited shall immediately be cordoned off from public access. If the generator or hauler cannot be identified, the facility operator shall assure the cleanup, transportation, and disposal of the waste at a permitted hazardous waste management facility. In the event that hazardous wastes are discovered they shall be managed in accordance with the procedures provided in facility Operation Plan.
12. Emergency Preparedness Manual. The facility's Emergency Preparedness Manual shall be kept by the permittee at the site and a copy shall be maintained at a designated off site location. The manual shall be updated at least once a year and upon changes in operations in accordance with Rule 62-711.540, F.A.C.
13. Contingency Plan and Notification of Emergencies. In the event of an emergency (e.g., fires, explosions, etc.) that may require the implementation of the facility's approved contingency plan, or should the facility suffer damage or failure to any of the site facilities or equipment, or if the facility is disabled or otherwise unable to operate, the following shall be implemented as applicable:
  - (a) The permittee shall notify the Department within twenty-four (24) hours of such an event, explaining the occurrence and remedial measures to be taken and time needed for repairs. The 24-hour emergency telephone number for the State's Warning Point, as designated in Chapter 62-150, F.A.C., is 850-413-9911. The telephone number for Miami-Dade County RER emergency hotline (24 hours) is (305) 372-6955. Provide the name of the permittee, the facility file number (RER File No. SW-1761), and a brief description of the incident. A written preliminary report describing the incident shall be submitted to the Department within seventy-two (72) hours of the start of the incident. In addition, a final written report shall be sent to the Department within two (2) weeks of the incident. The final report shall contain a complete description of, and discuss the cause of the emergency and/or discharge, the anticipated time that the discharge, if any, will continue, the steps that will be taken to evaluate, reduce, eliminate, and prevent recurrence of the event, and all other information deemed necessary by the Department. In addition, all applicable federal, state, and local discharge notifications shall be adhered to.
  - (b) The permittee shall adjust operation of the facility and implement appropriate procedures (e.g., transfer of existing and incoming waste tires to other permitted solid waste management facilities in Miami-Dade County), to prevent accumulation of waste tires in excess of the allowable storage quantities authorized by this permit.
  - (c) The facility operator or his/her designee shall take appropriate actions to protect the health and safety of the environment, personnel and populace by following procedures which will mitigate, lessen or prevent damage to the environment or health and welfare of personnel and the public.
14. Housekeeping. The facility shall be operated to control dust, vectors, litter and objectionable odors. Storage of waste tires shall not result in vector breeding and animal attraction, or discharge of contaminants to ground or groundwater, or cause a public nuisance, or result in violations of the conditions of this permit.
15. Access Control. Access control to the facility shall be maintained during non-working hours of the facility to prevent disposal of unauthorized solid waste.

#### **Water Quality Monitoring Requirements**

[There are no water quality monitoring requirements for this facility].

#### **Gas Management System Requirements**

[There are no gas management requirements for this facility.]

#### **Reporting Requirements**

16. The permittee shall submit a quarterly report on DEP Form 62-701.900(21) to the Department that summarizes all of the information required by Rule 62-711.530(4), F.A.C., no later than the twentieth (20) day of the succeeding month following the close of each calendar quarter to:

- Attn: Ms. Patti Emad  
Environmental Evaluations Delegated Program, 7th Floor

Pollution Regulation Division  
Department of Regulatory and Economic Resources  
701 N.W. 1st Ct.  
Miami, FL 33136

In addition to the information required in Rule 62-711.530(4), F.A.C., the following information shall be included:

- (a) The facility name, address and permit number;
- (b) The quarter covered by the report;
- (c) The total quantity, by category, of waste tires received at the facility during the quarter covered by the report;
- (d) The total quantity, by category, of waste tires shipped from the facility during the quarter covered by the report;
- (e) The total quantity of waste tires processed during the quarter;
- (f) The total quantity, by category, of waste tires located at the facility on the last day of the quarter; and
- (g) A list of all dates on which one or more category of waste tires exceeded the storage limit, which category was in excess, and how this condition was relieved or will be relieved.

Note: The permittee shall record and maintain for three years all of the information collected under Section 62-711.530(4), F.A.C. regarding their activities, which records shall be available for inspection by RER personnel during normal business hours.

#### **Financial Assurance and Cost Estimate Requirements**

17. **Financial Assurance Exemption.** Pursuant to the FDEP waiver SWVA No. 15-1 (attached), the permittee is not required to maintain a financial assurance mechanism to comply with the requirements of Rule 62-711.500(3)(a), F.A.C. Said variance shall not exempt the permittee from the requirements of Rule 62-711.500(3), F.A.C. if a formal request (i.e., permit modification) is filed with the Department to increase the maximum quantity of waste tires authorized for storage at the facility at any time by this permit.

#### **Closure Requirements**

18. **Closure Specific Requirements.** The permittee shall be responsible for the removal of all waste tires to a facility approved by RER for disposal or processing.
19. **Closure Notification Requirements.** The permittee shall notify the Department prior to ceasing operations, and shall submit a written certification to the Department when closure is complete. Upon closure of this facility, the permittee shall stop public access to the site; post a notice indicating that the site is closed and giving the phone number of the county solid waste authority; notify the Department; remove all waste tires and residuals to a waste tire processing facility, solid waste management facility authorized to accept waste tires, or a legitimate user of waste tires; remove any solid waste to a permitted solid waste management facility; and notify the Department when closing is complete.

#### **Other**

20. **Permit Modification.** Any change to operation or monitoring requirements of this permit may require a modification to this permit in accordance with the provisions of Rule 62-701.320(4), F.A.C.
21. **Permit Renewal.** In order to ensure uninterrupted operation of this facility, a timely and sufficient permit renewal application must be submitted to the Department in accordance with Rule 62-701.320(10), F.A.C. A permit application submitted at least sixty-one (61) days prior to the expiration of this permit is considered timely and sufficient.
22. **Transfer of Permit or Name Change.** In accordance with Rule 62-701.320(11), F.A.C., the Department must be notified in writing within 30 days: (1) of any sale or conveyance of the facility; (2) if a new or different person takes ownership or control of the facility; or (3) if the facility name is changed.
23. **Non-Compliance with Permit Conditions.** If for any reason, the permittee does not comply with or is unable to comply with any condition specified herein, the permittee shall immediately notify and provide the Department with the following information: (a) a description of and cause of non-compliance; and (b) the period of non-compliance including exact dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps taken to reduce, eliminate, and prevent recurrence of the non-compliance. The Permittee shall be responsible for any and all environmental damages, which may result and may be subject to enforcement action by the Department.

24. Facility Inspections. The Permittee specifically agrees to allow access to the facility at reasonable times by Department personnel presenting credentials for the purposes of inspection and testing to determine compliance with this Permit and Department rules.
25. Compliance with Department Rules. Unless otherwise notified by the Department, the Permittee shall comply with all applicable requirements of Chapters 62-701 and 62-711, F.A.C.
26. This Permit does not release the Permittee from obtaining all other required permits and approvals for the construction, operation, and closure of the Facility.


**Appendices Made Part of this Permit**

Appendix A – List of Approved Permit Application Documents

**Attachments**

- Monthly Operating Report (MOR) Form
- Waste Tire Processing Facility Quarterly Report – DEP Form # 62-701.900(21)
- FDEP waiver SWVA No. 15-1

Issued this 28<sup>th</sup> day of July, 2015  
DEPARTMENT OF REGULATORY AND ECONOMIC RESOURCES

  
\_\_\_\_\_  
Rashid E. Istambouli, P.E., Chief  
Pollution Regulation Division  
Department of Regulatory and Economic Resources



## **Appendix A**

### **List of Approved Permit Application Documents**

1. Permit application to operate a Waste Tire Processing Facility dated August 25, 2011 submitted on FDEP Form #62-701.900(23) and received by the Department on August 26, 2011 that includes the following:
  - (a) Department approved Emergency Preparedness Manual.
  - (b) Department approved Operations Plan.
2. Response dated December 7, 2011 to the Department Request for Additional Information #1 letter dated September 23, 2011 received by the Department on December 08, 2011 that includes the following:
  - (a) Revised permit application to operate a Waste Tire Processing Facility dated November 30, 2011 submitted on FDEP Form #62-701.900(23).
  - (b) Department approved Facility Site Plan (S-1) dated November 22, 2011.
3. Response dated February 20, 2012 to the Department Request for Additional Information #2 letter dated January 6, 2012.
4. Permit Application Completion letter issued by the Department on September 12, 2012.
5. Revised facility closure plan received by the Department on September 26, 2012 which constitutes the Department approved closure plan.
6. Proof of publication for the Notice Proposed Agency Action received by the Department on October 15, 2012 indicating that the Notice was both certified by a notary public and published on October 9, 2012.
7. Financial Assurance Waiver SWVA No. 15-1 granted by the Florida Department of Environmental Protection on June 18, 2015.



# Florida Department of Environmental Protection

Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

DEP Form # 62-701.900(21)

Form Title: Waste Tire Processing Facility Quarterly  
Report

Effective Date: January 6, 2010

DEP Application No.

(Completed by DEP)

## WASTE TIRE PROCESSING FACILITY QUARTERLY REPORT

Pursuant to Rule 62-711.530, Florida Administrative Code, the owner or operator of a waste tire processing facility shall submit the following information to the Department quarterly.

Quarter covered by this report \_\_\_\_\_ (First quarter begins on January 1 of any given year)

1. Facility name: \_\_\_\_\_
2. Facility mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ County: \_\_\_\_\_ Zip: \_\_\_\_\_
3. Facility permit number: \_\_\_\_\_
4. Facility telephone number ( ) \_\_\_\_\_
5. Authorized person preparing report: \_\_\_\_\_
6. Affiliation with facility: \_\_\_\_\_
7. Telephone number (if different from above): ( ) \_\_\_\_\_
8. Activity: Report in tons

	Beginning Inventory	Received	Processed	Consumed	Removed	Adjustments	Ending Inventory
Used Tires							
Other Whole Tires							
Processed Tires							
Processing Waste							
Other							
Total							

- a. Explain all inventory adjustments.  
\_\_\_\_\_  
\_\_\_\_\_
- b. List any period in which one or more category of inventory exceeded the permitted maximum for that category. How was that condition relieved?  
\_\_\_\_\_  
\_\_\_\_\_

For any excess inventory at the end of the quarter, state how and when this condition will be relieved. Attach Additional sheets, if necessary.  
\_\_\_\_\_  
\_\_\_\_\_

9. Certification: To the best of my knowledge and belief, I certify the information provided in this report is true, accurate, and complete.

\_\_\_\_\_  
Print Name of Authorized Agent

\_\_\_\_\_  
Signature of Authorized Agent

\_\_\_\_\_  
Date

Mail completed form to the  
appropriate District office listed below

Northwest District  
160 Government Center  
Pensacola, FL 32501-5794  
850-585-8360

Northeast District  
7825 Baymeadows Way, Ste. 200 B  
Jacksonville, FL 32256-7590  
904-807-3300

Central District  
3319 Maguire Blvd., Ste. 232  
Orlando, FL 32803-3767  
407-894-7555

Southwest District  
13051 N. Telecom Pky.  
Tempe Terrace, FL  
813-632-7600

South District  
2295 Victoria Ave., Ste. 364  
Fort Myers, FL 33902-2549  
239-332-6975

Southeast District  
400 North Congress Ave.  
West Palm Beach, FL 33401  
561-681-6600

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of a request  
for waiver by:  
TM Tires, Inc.  
Marcos Rivero  
5555 N.W. 36 Avenue  
Miami, Florida 32399

---

OGC No.: 15-0330  
SWVA No.: 15-1

**RECEIVED**  
DERM

JUN 18 2015

POLLUTION REGULATION  
DIVISION  
(VIA EMAIL)

ORDER GRANTING WAIVER

The State of Florida Department of Environmental Protection (Department) hereby gives notice that it is granting a waiver to TM Tires, Inc. (Petitioner), pursuant to section 120.542, Florida Statutes (F.S.), for its facility located at 5555 N.W. 36 Avenue, Miami, Florida 33142 (Facility). On April 28, 2015, the Department received a petition for variance or waiver from Marcos Rivero, President of TM Tires, Inc. (Petition for Waiver). The Petitioner requests a waiver from Rule 62-711.500(3)(a), Florida Administrative Code (F.A.C.), which requires that owners and operators of waste tire sites provide financial assurance in the amount of the closing cost estimate for the facility.

FINDINGS OF FACT

1. Petitioner operates a waste tire processing facility, located at 5555 N.W. 36 Avenue, Miami, Florida 33142. Petitioner purchases loads of used tires that are then evaluated for marketability. Used tires that can be reused are sold. Used tires that cannot be sold due to their condition are sent to off-site disposal facilities. Section 403.717(1)(d), F.S., defines waste tires to include used tires, and section 403.717(3)(a), F.S., prohibits any person from storing more than 1,500 waste tires except at a permitted waste tire processing facility or other permitted solid waste management

facility. During operations, the Petitioner stores up to 15,000 waste tires at the Facility. This amount exceeds the statutory permitting threshold of 1,500 waste tires on-site.

2. On October 23, 2012, Petitioner received permit number 307803-001-WT to operate a waste tire processing facility (Permit) from the Miami-Dade County Department of Regulatory and Economic Resources, Division of Environmental Resources Management (DERM), which operates under a delegation agreement with the Department. The Facility has been assigned WACS ID number 100092. Rule 62-711.500(3)(a), F.A.C., requires that proof of financial assurance for the closure of the facility be provided as a necessary part of the permit application. The Permit limits the number of waste tires on-site to less than 15,000 tires.

3. Petitioner currently maintains a Trust Fund in the amount of \$7,280 as the financial assurance instrument for closing the waste tire site. Petitioner submitted an estimate to remove and dispose of the waste tires at a cost of \$40 per ton for a total cost of \$6,000 to dispose of the 15,000 waste tires. According to Petitioner, the documented administrative fee for maintaining the Trust Fund is \$2,000 per year. Petitioner claims it would be unfair to continue paying annual fees for this financial assurance instrument due to the high administrative costs associated with it relative to the small estimated closure costs.

4. On April 28, 2015, Petitioner submitted a waiver request seeking to have the provisions of Rule 62-711.500(3)(a), F.A.C., not apply to its permitted waste tire processing facility.

5. No comments have been received from the public in response to the Notice of Receipt published in the Florida Administrative Register on May 21, 2015.

### CONCLUSIONS OF LAW

1. Section 120.542, F.S., authorizes the Department to grant a waiver from any of its rules upon a demonstration that the purpose of the underlying statute will be achieved by other means and that application of the rule would create a substantial hardship or would violate principles of fairness.

2. The Petitioner has demonstrated that it will suffer a substantial and unnecessary economic hardship if it is required to maintain proof of financial assurance for closure of its Facility. Because Petitioner's facility's closure costs are so small, it has also demonstrated that granting the waiver would not be expected to pose any significant economic risk to Florida taxpayers and, therefore, is not expected to have any adverse environmental consequences.

3. The Department concludes the Petitioner has demonstrated that it has met the requirements for a waiver from Rule 62-711.500(3)(a), F.A.C., with the conditions below. The Department concludes that Petitioner would suffer a substantial economic hardship if the waiver was not granted, and that the grant of the waiver will be consistent with the general intent and purpose of Chapter 403, F.S.

4. This waiver, by itself, does not constitute authorization for Petitioner to proceed with the proposed project. Petitioner is required to operate the Facility only in accordance with the appropriate permit issued under the Department's delegation agreement with the Miami-Dade County DERM.

For these reasons, the Petition for Waiver is GRANTED, subject to the following conditions.

### CONDITIONS

1. Petitioner shall comply with the applicable requirements for obtaining and maintaining an waste tire processing facility permit contained in Chapter 62-711, F.A.C., including all requirements for the appropriate closure of Petitioner's Facility, except it shall not be required to provide financial assurance for closure of the facility in accordance with Rule 62-711.500(3)(a), F.A.C.

2. Petitioner shall not store more than 15,000 waste tires on-site at the Facility at any one time. The Department reserves the right to revoke this Order if Petitioner fails to comply with this provision of its Permit.

3. The issuance of this waiver does not relieve the Petitioner from the need to comply with all other conditions of any solid waste permit that may be issued, or from any other requirements of federal, state, or local agencies.

### NOTICE OF RIGHTS

The Department's Order Granting Waiver will be considered final unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57, F.S., before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed agency action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or by electronic mail at [Agency\\_Clerk@DEP.state.fl.us](mailto:Agency_Clerk@DEP.state.fl.us).

Petitions by the applicant or any of the parties listed below must be filed within 21 days of receipt of this written notice. Petitions filed by other persons must be filed within 21 days of publication of the notice or receipt of the written notice, whichever occurs first. Under section 120.60(3), F.S., however, any person who asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must be in accordance with Rule 28-106.201, F.A.C., and contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.



A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

In accordance with section 120.573, F.S., the Department advises that mediation is not available in this case under the provisions of that statute. This does not prevent any interested parties from agreeing to other forms of alternate dispute resolution.

Any party to this order has the right to seek judicial review of it under section 120.68, F.S., by filing a Notice of Appeal under Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days after this order is filed with the Clerk of the Department.

DONE AND ORDERED this 16th day of June, 2015, in Leon County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



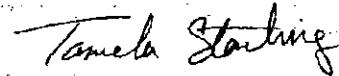
John A. Coates, P.E.  
Assistant Director  
Division of Waste Management  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

CERTIFICATE OF SERVICE

I, the undersigned designated Department clerk, HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by United States Mail to Mr. Marcos Rivero, TM Tires, Inc., 5555 N.W. 36 Avenue, Miami, Florida 33142, on this \_\_18\_\_ day of \_\_June\_\_\_\_, 2015.

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52(11), Florida Statutes, with the designated Department clerk, receipt of which is hereby acknowledged.



(Clerk)

6/18/15  
(date)

Electronic copies furnished to:

Ben Melnick, OGC  
Amede Dimonnay, DEP SED  
Richard Tedder, DEP Tallahassee  
Johnny Vega, Miami-Dade County DERM  
Tor Bejnar, DEP Tallahassee