

Guidance and Clarity on Waste Tires

Farmers have raised several questions about compliance with Part 360 and several farms have made efforts to modify tires or purchase new sidewalls to replace whole tires. In an effort to clarify some of these questions and issues, NYFB, NEDPA, and PRO-DAIRY hosted a farm tour with DEC officials as an educational opportunity to learn more about the use of tires on bunk silos on farms. Based on conversations with DEC, we wanted to provide an update and clarify portions of the beneficial use determination (BUD) for tires used on farms.

Enforcement Discretion: What does it mean?

On March 1, 2018, the NYS Department of Environmental Conservation issued an [Enforcement Discretion Letter](#) regarding the enforcement of Part 360 as it relates to waste tires used on bunk silos. The letter provides for an additional year, **until May 3, 2019**, for DEC to provide enforcement discretion for farmers who are in compliance with either [Part 360.12 \(c\)\(2\)\(iv\)](#) or BUD 1137-0-00.

This means that farms will have flexibility for compliance under the enforcement discretion letter. It will be acceptable for farmers to be working toward compliance with either the conditions of new Part 360.12(c)(2)(iv) or BUD 1137-0-00, whichever is more feasible, in order to be covered by the Enforcement Discretion Letter dated March 1, from now until May 3, 2019 (or until regulation revisions if final earlier). A copy of BUD 1137-0-00 can be found here: https://www.dec.ny.gov/docs/materials_minerals_pdf/bud1137000.pdf.

BUD 1137-0-00 refers generally to ensuring the amount of tires received at a farm does not exceed the number needed for bunker silos. No method is prescribed to limit this number, so the farmer should be able to show, if necessary, that tires on the site are a reasonable number based on common practice for securing silo and storage tarps and the farmer's silo/storage capacity. If excess tires are kept at the farm, which are unlikely to be used on a bunk or for expansion purposes, the farmer should ensure these tires do not pose a fire hazard or collect standing water, and begin planning for removal of the tires from the site. The policy goal is to ensure that tires are not sitting in piles, unused for years and the state wants these tires properly disposed of.

BUD 1137-0-00 further states the farmer must take measures to minimize standing water and insect breeding. No specific procedures are prescribed for meeting these requirements, so the farmer is at liberty to use any method that will be compliant with other federal, state and local requirements (e.g., CAFO permit, pesticide regulations, etc.).

These procedures could include:

- Keep vegetation down around stacks/piles of tires when not in use on the bunk. This can help tires dry out faster and retain less water
- Put tires that are not in use under cover (tarp or building) to reduce water build-up
- Stack tires neatly so that minimum amounts of water can accumulate
- Rims can be kept in place in tires, which can prevent retention of water

Bias-ply vs. Radial Tires:

If farmers are ordering sidewalls for their bunks, they should research the type of sidewalls that they are purchasing. Bias-ply sidewalls do not contain any wires in the tire. Radial tires do have wires in them which can present both an employee and animal hazard. Before using radial tires that have been cut in half or sidewalls, consider the following: producers who have used radial tire sidewalls or half-tires have reported that over time, the rubber shrinks and as wires rust, metal pieces break off and may cause an increase in hardware disease.

DEC continues to engage with the agricultural community about the potential for more widely available and viable recycling options for unneeded tires. It is possible that mobile chippers could help solve the transportation problem due to needed permits and the bulkiness of tires, but this type of solution will take time to work out. We hope to provide more information on this topic as discussions with DEC continues. **Farmers are reminded that burial or burning of tires are expressly prohibited.** Before taking tires to permitted disposal locations, farmers should call ahead to find out if there are certain requirements, such as cleaning the tires, before they can be accepted at a disposal facility.

As tires are removed from bunks, this is a good time to decide what actions will be taken to meet the BUD. For example, stacking tires on edge to minimize water collection, or storing tires undercover if there is an option available near the bunk. Controlling weeds around tire storage should be something many farms can manage. While farmers should begin to think about compliance on their farms, they should look at manageable efforts in the interim under the enforcement discretion. We continue to work with DEC to find a practical solution that will be workable for farms across the state. As information changes, updates will be provided.