**Section 861.210 Determining Priority for Removal of Used and Waste Tires**

a) The Agency shall identify, from the categories provided in this Section, the priority classification of sites at which the Agency intends to perform a Consensual Removal Action. The Agency shall include a site within a category only if the site is eligible for Consensual Removal Action under Section 861.200.

1) "Environmental/Health Hazard Sites." A site shall be included within this category if the accumulation of used and waste tires at the site poses a threat to human health or the environment or a significant and immediate risk of creating such a hazard. Sites in this category shall have the highest priority for Agency action.

2) "Non-Commercial Sites." A site shall be included within this category if the site is not an Environmental/Health Hazard Site under subsection (a)(1) and the site is not a Commercial Site under subsection (a)(3). Sites in this category shall have the second highest priority for Agency action after Environmental/Health Hazard Sites; except that, it shall not be necessary for the Agency to take Consensual Removal Actions at all Environmental/Health Hazard Sites before taking Consensual Removal Action at the sites in this category.

3) "Commercial Sites." A site shall be included within this category if the used or waste tires were accumulated as a normal course of business. Such sites shall include, but are not limited to the following:

A) Commercial tire retail facilities;

B) Salvage and scrap yards;

C) Trucking terminals; and

D) Fleet vehicle repair and service facilities.

 The Agency shall use State funds to perform Consunsual Removal Actions at sites in this category only if State funds are sufficient to perform Consensual Removal Actions at those sites designated for action in the Environmental/Health Hazard Site and Non-Commercial Site categories.

b) Annually in July, the Agency shall publish a TPL arranged by the categories provided in this Section. Within each category, the Agency shall determine the order in which sites shall be the subject of a Consensual Removal Action. The Agency shall consider the following factors in determining the order for the sites:

1) Whether removal action has been requested by the Illinois Department of Public Health or a local public health agency.

2) The number of persons residing, working or engaged in recreational activities within one-quarter mile of the site.

3) The type of removal action required and number of tires on a site.

4) Whether access to the site by members of the general public is restricted by a fence or other barrier.

5) Whether the tires were placed on the site without the owner's knowledge.

6) Whether the owner received compensation from other persons to accept the tires.

7) Whether the owner has the capability to undertake or finance the removal action.

8) Other factors relating to the site, including but not limited to whether State resources are available to perform the removal action, pending enforcement actions.

c) As of each January 1, where listed sites are not ready to proceed with remedial action, the Agency shall proceed down the list in order of priority to other sites which are ready to proceed.