

CHAPTER 9220
MINNESOTA POLLUTION CONTROL AGENCY
WASTE TIRE PROGRAMS

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WASTE TIRE ABATEMENT

9220.0100 SCOPE.

Parts 9220.0100 to 9220.0180 establish the procedures that the agency shall follow in moving to abate tire dumps, the procedures that a responsible tire collector shall follow in abating a tire dump pursuant to agency request, and the technical standards that a responsible tire collector must meet during the abatement process.

Statutory Authority: *MS s 115A.914*

History: *11 SR 1113; 12 SR 2426; L 1999 c 73 s 5*

9220.0110 DEFINITIONS.

Subpart 1. **Applicability.** For the purposes of parts 9220.0100 to 9220.0180, the terms in subparts 2 to 22 have the meanings given them.

Subp. 2. **Abate or abatement.** "Abate" or "abatement" means processing and removing waste tires in a manner accepted by the agency.

Subp. 3. **Abatement increment.** "Abatement increment" means period of time, not greater than six months and not less than one month, as specified in an abatement plan, during which a specified number of waste tires will be removed from the tire dump and processed.

Subp. 4. **Agency.** "Agency" means the Pollution Control Agency.

Subp. 5. **Commissioner.** “Commissioner” means the commissioner of the Pollution Control Agency.

Subp. 6. **Flood plain.** “Flood plain” means any land area that is subject to a one percent or greater chance of flooding in any given year from any source.

Subp. 7. **Operator.** “Operator” means the person responsible for the overall operation of the tire dump. A tire dump operator is a tire collector as defined in Minnesota Statutes, section 115A.90, subdivision 8.

Subp. 7a. **Oversize waste tires.** “Oversize waste tires” means a waste tire exceeding a 35–inch outside diameter, or a 14–inch width.

Subp. 8. **Owner.** “Owner” means a person who owns, in whole or in part, the waste tires located in a tire dump, or the land on which the tire dump is located. As used in parts 9220.0100 to 9220.0180, “owner” includes one who holds an interest in the property on which the tire dump is located, as in the case of a lessee. An owner is a tire collector as defined in Minnesota Statutes, section 115A.90, subdivision 8.

Subp. 9. **Person.** “Person” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 5.

Subp. 10. **Processing.** “Processing” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 6.

Subp. 11. **Ravine.** “Ravine” means a deep, narrow cleft or gorge in the earth’s surface. A ravine cannot be smoothed out by ordinary tillage.

Subp. 12. **Residuals from processing.** “Residuals from processing” means the unusable material resulting from any chemical or physical processing of waste tires.

Subp. 13. **Responsible tire collector.** “Responsible tire collector” means a person who is the recipient of the abatement request. A responsible tire collector is an owner or operator of a tire dump, as defined in this part.

Subp. 14. **Shoreland.** “Shoreland” means land located within 1,000 feet from the normal high water mark of a lake, pond, or flowage, or land within 300 feet of a river or stream, or a flood plain as established by ordinance.

Subp. 15. **Sinkhole.** “Sinkhole” means a closed depression formed by subsidence of the underlying bedrock.

Subp. 16. **Tire.** “Tire” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 7.

Subp. 17. **Tire collector.** “Tire collector” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 8.

Subp. 18. **Tire–derived products.** “Tire–derived products” means usable materials produced from the chemical or physical processing of a waste tire.

Subp. 19. **Tire dump.** “Tire dump” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 9.

Subp. 20. **Tire processor.** “Tire processor” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 10.

Subp. 21. **Waste tire.** “Waste tire” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 11.

Subp. 22. **Wetland.** “Wetland” means any area that is covered by standing water during any portion of a year. As used in this part, “wetland” includes but is not limited to wetlands as defined in Classification of Wetlands and Deep Water Habitats of the United States, 1979. This publication was issued by the United States Department of the Interior, Fish and Wildlife Service, Washington, D.C. 20402. This publication is available at the Minnesota State Government Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota. This publication is incorporated into this definition by reference and is not subject to frequent change.

Statutory Authority: *MS s 115A.914*

History: *11 SR 1113; 12 SR 2426; L 1999 c 73 s 5*

9220.0120 ABATEMENT PROCEDURES.

Subpart 1. **Scope.** Subparts 2, 3, and 4 describe the criteria the agency shall use in deciding which tire dumps to abate first, the procedures that the agency shall follow in abating tire dumps, and the actions that responsible tire collectors must take to comply with an agency request to abate.

Subp. 2. **Abatement priorities.** The agency shall issue a request for abatement action to tire collectors responsible for tire dumps that meet the following priority criteria:

A. **First priority:** tire dumps with over 1,000,000 waste tires. Tire dumps with over 1,000,000 waste tires shall be ranked based on the priority criteria in items B and C.

B. **Second priority:** tire dumps posing fire hazards. In ranking tire dumps that are fire hazards, the agency shall consider the number of waste tires in the tire dump; the proximity of the tire dump to population concentrations; the proximity of the tire dump to natural resources that would be affected by a fire at the tire dump; and the characteristics of the tire dump that might make it susceptible to fire, including but not limited to the absence of fire lanes, the lack of emergency equipment, the presence of easily combustible materials, and the lack of site access control.

C. **Third priority:** tire dumps in densely populated areas. In ranking tire dumps located in densely populated areas, the agency shall consider the population concentration within five miles of the tire dump; the number of waste tires in the tire dump; the hazardous characteristics of the tire dump, including but not limited to its susceptibility to fire or to mosquito infestation; and whether the tire dump is visible from any public way.

D. **Fourth priority:** remaining tire dumps. For tire dumps that do not meet the priority criteria in subpart 3, items A to C, the agency shall consider the number of waste tires located at the tire dump; the hazardous characteristics of the tire dump, including but not limited to its susceptibility to fire or mosquito infestation; and the population and natural resources that might be affected by the presence of the tire dump.

Subp. 3. **Request for abatement action.** The agency shall issue a request for abatement action to all responsible tire collectors. A request for abatement action shall be in writing, specify the action that must be taken to comply, the time allowed for response, the reasons for requesting the action, and the actions that the agency will take if the requested action is not taken in the requested time.

Subp. 4. **Requested action.** The request for abatement action shall require that the responsible tire collector or collectors submit to the commissioner an abatement plan meeting the criteria in part 9220.0130. The request for abatement action shall require that the responsible tire collector or collectors agree to implement the abatement plan by entering into a stipulation agreement with the agency.

Statutory Authority: *MS s 115A.914*

History: *11 SR 1113; 12 SR 2426; L 1999 c 73 s 5*

9220.0130 CONTENTS OF ABATEMENT PLAN.

Subpart 1. **Goal.** The abatement of a tire dump subject to an agency abatement action shall be accomplished through the processing and removal of the waste tires present in the tire dump. Abatement action must be in accordance with a plan that meets the criteria in this part. If approved by the commissioner, a plan that meets the criteria in this part shall be incorporated into a stipulation agreement signed by the responsible tire collector or collectors and the agency.

Subp. 2. **Processing on site.** If the responsible tire collector elects to process the waste tires on the tire dump site, the following information must be included in the abatement plan submitted to the commissioner in compliance with the request for abatement action:

A. A description of the processing techniques.

B. A description of the equipment that will be used on the site to process and remove the waste tires. The function of each piece of equipment should be specifically noted.

C. The name, address, and telephone number of the users of the tire-derived products produced from the processing of the waste tires constituting the tire dump, and a description of how the tire-derived products will be used.

D. A description of how any residuals from processing the waste tires will be disposed.

E. A time schedule for removal and processing of the waste tires constituting the tire dump. Abatement of the tire dump must be completed within five years of the execution of the stipulation agreement incorporating the abatement plan. Abatement increments must be established.

F. A time schedule for bringing the tire dump into compliance with the technical and operational standards in parts 9220.0150 and 9220.0160. The tire dump must be in compliance with all technical and operational standards within six months, unless otherwise agreed to in the stipulation agreement incorporating the abatement plan. An emergency preparedness manual meeting the standards in part 9220.0160, subpart 8, must be submitted to the commissioner as part of the abatement plan.

G. A description of how records on the number of waste tires processed and removed will be maintained.

H. [Repealed, L 2002 c 382 art 1 s 6]

Subp. 3. Processing off site. If the responsible tire collector elects to remove the waste tires to another location for processing, the following information must be included in the abatement plan submitted to the commissioner in compliance with the request for abatement action.

A. A description of the equipment that will be used to pick up and transport the waste tires to the tire processor.

B. If the responsible tire collector will contract with another person or firm for the transportation of the waste tires, the name, address, and telephone number of that person or firm.

C. The name, address, and telephone number of the facility at which the waste tires will be processed, and a description of the processing techniques employed by that tire processor.

D. The name, address, and phone numbers of the users of the tire-derived products produced from the processing of the waste tires constituting the tire dump, and a description of how the tire-derived products will be used.

E. A time schedule for the removal of the waste tires constituting the tire dump. The abatement of the tire dump must be completed within five years of the execution of the stipulation agreement incorporating the abatement plan. Abatement increments must be established.

F. A time schedule for bringing the tire dump into compliance with the technical and operational standards in parts 9220.0150 and 9220.0160. The tire dump must be in compliance with all technical standards within six months, unless otherwise agreed to in the stipulation agreement incorporating the abatement plan. An emergency preparedness manual meeting the standards in part 9220.0160, subpart 8, must be submitted to the commissioner as part of the abatement plan.

G. A description of how records on the number of waste tires removed will be maintained.

H. If the responsible tire collector will seek reimbursement under part 9220.0170, an estimate of the net cost of processing the waste tires using the most cost effective processing alternative. This estimate must be supported through submission of documentation of the net cost of processing the waste tires.

Subp. 4. Permitting during abatement. If the responsible tire collector wishes to obtain an agency permit for the site that is the subject of the abatement action, the responsible tire collector must notify the commissioner of this intent at the time the abatement plan is submitted, and agree to develop a plan for bringing the site into compliance with the waste tire permit rules for storage, transfer, or processing facilities once rules governing these facilities are in place.

Subp. 5. New waste tires. If the responsible tire collector wants to continue to receive new waste tires during the time the tire dump is being abated, the responsible tire collector

must notify the commissioner of this intent at the time the abatement plan is submitted, and agree to develop a plan for processing and removal of the new waste tires.

Statutory Authority: *MS s 115A.914*

History: *11 SR 1113; 12 SR 2426; L 1999 c 73 s 5; L 2002 c 382 art 1 s 6*

9220.0140 INADEQUATE RESPONSE TO A REQUEST FOR ABATEMENT ACTION.

Subpart 1. **Inadequate response.** The agency shall determine if a responsible tire collector has failed to make an adequate response to a request for abatement action. The following constitute grounds for the agency to find that a response has been inadequate:

A. the responsible tire collector has not responded to the request for abatement action within the time period specified in the request for abatement action;

B. the responsible tire collector has failed to submit an abatement plan that meets the criteria in part 9220.0130;

C. the responsible tire collector has failed to sign a stipulation agreement incorporating the abatement plan approved by the commissioner; or

D. the responsible tire collector has failed to comply with a term or condition of the stipulation agreement incorporating the abatement plan.

Subp. 2. **Abatement order.** A finding that a responsible tire collector has failed to make an adequate response to a request for abatement constitutes grounds for the agency to issue a tire dump abatement order to the responsible tire collector. If the agency determines that agency abatement is required, the tire dump abatement order shall provide for entering the property where the tire dump is located, taking the waste tires into public custody, and arranging for their processing and removal.

Statutory Authority: *MS s 115A.914*

History: *11 SR 1113; 12 SR 2426; L 1999 c 73 s 5*

9220.0150 TECHNICAL STANDARDS.

Subpart 1. **Scope.** During the time a tire dump is being abated according to an abatement plan approved by the commissioner, the responsible tire collector shall operate and maintain the tire dump in compliance with the following standards.

Subp. 2. **Indoor storage.** Waste tires stored indoors shall be stored under conditions that meet or exceed those in The Standard for Storage of Rubber Tires, NFPA 231D-1980 edition, adopted by the National Fire Protection Association, San Diego, California. This publication is available at the Minnesota State Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota; the Office of Public Safety, Fire Marshal Division; or any local fire department. This publication is incorporated by reference and is not subject to frequent change.

Subp. 3. **Location of waste tire piles.** No waste tires shall be stored in any area where they may be subjected to immersion in water, including but not limited to flood plains, wetlands, shorelands, sinkholes, or ravines.

Subp. 4. **Dimensions of waste tire piles.** No individual waste tire pile shall have an area greater than 10,000 square feet or a vertical height greater than 20 feet. A 50-foot fire lane shall be placed around the perimeter of each waste tire pile. This fire lane shall be maintained free of rubbish, equipment, and vegetation at all times.

Statutory Authority: *MS s 115A.914*

History: *11 SR 1113; 12 SR 2426; L 1999 c 73 s 5*

9220.0160 OPERATIONAL STANDARDS.

Subpart 1. **Scope.** During the time a tire dump is being abated pursuant to an abatement plan approved by the commissioner, the tire dump must be operated in compliance with the following standards.

Subp. 2. **Burning.** No operations involving the use of open flames, blow torches, or highly flammable substances shall be conducted within 50 feet of a waste tire pile.

Subp. 3. **Emergency equipment.** Equipment for the control of accidental fires shall be provided and maintained at the tire dump.

Subp. 4. **Emergency communications.** Communication equipment shall be provided and maintained at the tire dump. Arrangements to acquire fire protection services for the tire dump shall be made through agreement with local fire protection authorities.

Subp. 5. **Access.** An approach and access road to the tire dump shall be maintained passable for any vehicle at all times. Access to the tire dump shall be strictly controlled through use of fences and gates.

Subp. 6. **Vegetation.** The tire dump shall be maintained free of grass, underbrush, and other potentially flammable vegetation at all times.

Subp. 7. **Storage limitation.** Only waste tires or tire-derived products may be stored at the tire dump.

Subp. 8. **Emergency manual.** The operator of the tire dump shall prepare and maintain at the tire dump site an emergency preparedness manual containing the following elements:

A. a list of names and numbers of persons to be contacted in the event of a fire, flood, or other emergency involving the tire dump;

B. a list of the emergency response equipment present at the tire dump, its location, and how it should be used in the event of a fire or other emergency; and

C. a description of the procedures that should be followed in the event of a fire at the tire dump, including procedures to contain and dispose of the oily material generated by the combustion of large numbers of tires.

The procedures in the emergency preparedness manual shall be followed in the event of an emergency at the tire dump. The emergency preparedness manual shall be updated once a year, upon changes in operations at the tire dump, or if required by the commissioner.

Subp. 9. **Emergency notification and reports.** The operator of the tire dump shall immediately notify the commissioner in the event of a fire or other emergency at the tire dump with potential off-site impacts. Within two weeks of any emergency involving potential off-site impact, the operator of the tire dump shall submit to the commissioner a report on the emergency. This report shall set out the origins of the emergency, the actions that were taken to deal with the emergency, the results of the actions that were taken, and an analysis of the success or failure of the actions.

Subp. 10. **Operational record.** The operator of the tire dump shall maintain records of the number of waste tires received at the tire dump, stored at the tire dump, and shipped from the tire dump. Records shall also be kept of the amount of tire-derived products received, stored, or shipped from the tire dump. At the completion of an abatement increment, the responsible tire collector shall submit to the commissioner a record of the approximate number of waste tires remaining in the tire dump; the amount of tire-derived products stored at the tire dump; and the number of waste tires or amount of tire-derived products received at the tire dump and shipped from the tire dump during the abatement increment. For waste tires and tire-derived products shipped to another location, the date and the amount shipped must be included.

Subp. 11. **Inspection.** At the completion of each abatement increment, the responsible tire collector shall notify the commissioner so that an inspection of the tire dump may be conducted to certify the completion of the required abatement.

Statutory Authority: *MS s 115A.914*

History: *11 SR 1113; 12 SR 2426; L 1999 c 73 s 5*

9220.0170 [Repealed, L 2002 c 382 art 1 s 6]

9220.0180 [Repealed, L 2002 c 382 art 1 s 6]

WASTE TIRE FACILITY PERMITS

9220.0200 SCOPE.

This chapter applies to owners and operators of facilities that store, transport, or process waste tires. This chapter governs the requirement for waste tire facility permits and establishes standards and requirements for the operation of waste tire facilities.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513*

9220.0210 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part apply to this chapter.

Subp. 1a. **Agency.** "Agency" means the Pollution Control Agency.

Subp. 2. **Agricultural purposes.** "Agricultural purposes" means the use of waste tires as bumpers on agricultural equipment or as a ballast to maintain covers or structures on the agricultural site.

Subp. 3. [Renumbered subp. 1a]

Subp. 4. [Renumbered subp. 6a]

Subp. 5. **Closure.** "Closure" means the removal of all stockpiles of waste tires and other materials from the waste tire facility in compliance with procedures established by statute, rule, order, or permit.

Subp. 6. **Closure plan.** "Closure plan" means the plan for closure required in part 9220.0490, subpart 3, and the applicable requirements of parts 9220.0490 and 9220.0500.

Subp. 6a. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subp. 7. **Current closure cost estimate.** "Current closure cost estimate" means the most recent of the estimates prepared under part 9220.0570.

Subp. 8. **Existing waste tire facility.** "Existing waste tire facility" means a facility that is receiving waste tires on May 23, 1988.

Subp. 9. **Floodway.** "Floodway" has the meaning given in Minnesota Statutes, section 103F.111, subdivision 5.

Subp. 10. **Operator.** "Operator" means the person responsible for the overall operation of the waste tire facility. An operator is a tire collector or tire processor as defined in Minnesota Statutes, section 115A.90, subdivisions 8 and 10.

Subp. 11. **Owner.** "Owner" means a person who owns, in whole or in part, a waste tire facility, the waste tires located at a facility, or the land on which the facility is located.

Subp. 12. **Permit.** "Permit" means an authorization from the agency to operate or construct a waste tire facility.

Subp. 13. **Person.** "Person" has the meaning given in Minnesota Statutes, section 115A.90, subdivision 5.

Subp. 14. **Processing.** "Processing" has the meaning given in Minnesota Statutes, section 115A.90, subdivision 6.

Subp. 15. **Ravine.** "Ravine" means a deep, narrow cleft or gorge in the earth's surface. A ravine cannot be smoothed out by ordinary tillage.

Subp. 16. **Residuals from processing.** "Residuals from processing" means the unusable materials resulting from chemical or physical processing of waste tires.

Subp. 17. **Shoreland.** "Shoreland" means land located within 1,000 feet from the normal high water mark of a lake, pond, or flowage, or land within 300 feet of a river or stream, or a floodplain as established by ordinance.

Subp. 18. **Sinkhole.** "Sinkhole" means a closed depression formed by subsidence of the underlying bedrock.

Subp. 19. **Tire.** “Tire” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 7.

Subp. 20. **Tire collector.** “Tire collector” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 8.

Subp. 21. **Tire-derived products.** “Tire-derived products” means the usable materials produced from the chemical or physical processing of a waste tire.

Subp. 22. **Tire dump.** “Tire dump” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 9.

Subp. 23. **Tire processor.** “Tire processor” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 10.

Subp. 24. **Transporter.** “Transporter” means a person who removes waste tires from a source of generation, a tire dump, or a waste tire facility.

Subp. 25. **Waste tire.** “Waste tire” has the meaning given in Minnesota Statutes, section 115A.90, subdivision 11.

Subp. 26. **Waste tire facility or facility.** “Waste tire facility” or “facility” means an area where more than 50 waste tires or an equivalent amount of tire-derived products are collected, deposited, stored, or processed. The incidental storage of tire-derived products at the site of final use does not make the site a waste tire facility.

Subp. 27. **Waste tire processing facility.** “Waste tire processing facility” means an area where waste tires or tire-derived products are processed. A waste tire processing facility must meet the qualifications in part 9220.0470.

Subp. 28. **Waste tire storage facility.** “Waste tire storage facility” means an area where waste tires, or tire-derived products, are collected, deposited, or stored. A waste tire storage facility is a facility that does not meet the qualifications for regulation as a waste tire transfer facility or a waste tire processing facility.

Subp. 29. **Waste tire transfer facility.** “Waste tire transfer facility” means an area where waste tires are concentrated for transport to waste tire processing facilities. A waste tire transfer facility must meet the qualifications in part 9220.0460.

Subp. 30. **Wetland.** “Wetland” means an area that is covered by standing water during any portion of a year. Wetland includes but is not limited to wetlands as defined in Classification of Wetlands and Deep Water Habitats of the United States, 1979. This publication is available at the Minnesota State Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155. This publication is incorporated into this definition by reference and is not subject to frequent change.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0220 LAND DISPOSAL PROHIBITED.

Disposal of waste tires and tire-derived products in the land is prohibited.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513*

9220.0230 PERMIT REQUIRED.

Subpart 1. **Permit required.** Except as provided in subpart 2, no person may do any of the following without obtaining a waste tire facility permit from the agency:

- A. store, process, or dispose of waste tires or tire-derived products; or
- B. establish, construct, modify, own, or operate a waste tire facility.

Subp. 2. **Exclusions.** The following persons are not required to obtain a waste tire facility permit:

- A. a retail tire seller for the retail selling site if no more than 500 waste tires are kept on the business premises;

B. an owner or operator of a tire retreading business for the business site if no more than 3,000 waste tires are kept on the business premises;

C. an owner or operator of a business who, in the ordinary course of business, removes tires from motor vehicles if no more than 500 waste tires are kept on the business premises;

D. a permitted landfill operator with less than 10,000 waste tires stored above ground at the permitted site;

E. a person using waste tires for agricultural purposes if the waste tires are kept on the site of use; or

F. a person conducting abatement activities under an abatement order or stipulation agreement entered into under part 9220.0120. This exemption does not exempt the person from the duty to obtain a waste tire facility permit for activities other than the abatement action.

Subp. 3. **Closure of facilities.** The owner or operator of a waste tire facility who does not seek a waste tire facility permit or who does not qualify for permit by rule status shall within 90 days after May 23, 1988, close the facility in compliance with part 9220.0500.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0240 PERMIT BY RULE.

Subpart 1. **Facilities eligible.** The owners and operators of the following waste tire facilities are considered to have obtained a waste tire facility permit without submitting the application described in part 9220.0270 if the commissioner has received the notification described in subpart 3:

A. a waste tire facility used for the storage of no more than 500 waste tires at any one time if the owner or operator, at least once a year, removes all the waste tires, and the facility is in compliance with the location requirements of part 9220.0450, subpart 2; and

B. a waste tire facility used for processing not more than 500 waste tires during any 30 days if the facility is in compliance with the location requirements of part 9220.0450, subpart 2.

Subp. 2. **Eligibility for owners and operators of mobile equipment.** The owners or operators of mobile shredding or baling equipment are considered to have obtained a waste tire facility permit if they submit the notice required under subpart 3 and if they comply with the following conditions:

A. the shredding or baling equipment is located at the tire dump or waste tire facility for less than 90 days; and

B. all bales or tire shreds and residuals are removed from the site 30 days after the completion of the shredding or baling operation.

Subp. 3. **Written notification.** To obtain permit by rule status, the owners and operators of a qualifying waste tire facility or mobile shredding or baling equipment shall submit the following information to the commissioner. For an existing facility, the notification must be submitted within 90 days of May 23, 1988. For a new facility and for each new shredding or baling site, the notification must be submitted 15 days before the operation begins. The notification must contain:

A. the name, address, and telephone number of the owner and operator of the facility or equipment, and the name, address, and telephone number of the facility;

B. a description of the general operation of the facility or equipment, including quantities of waste tires accumulated or processed per month;

C. a description of arrangements made to acquire fire protection services for the facility;

D. the township, range, and section numbers of the facility; and

E. a description of how the waste tires, tire-derived products, and residuals from processing will be disposed.

Subp. 4. **Termination of eligibility for permit by rule.** The agency shall terminate the eligibility of owners and operators of a facility for permit by rule status after notice and op-

portunity for a contested case hearing if the agency finds that the facility does not qualify for permit by rule status or that the facility should be permitted to protect human health or the environment. When eligibility to be permitted under this part has been terminated, the owner and operator of the facility must apply within 60 days for a waste tire facility permit or close the facility in compliance with part 9220.0490 and the applicable requirements of part 9220.0500.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0250 DESIGNATION OF PERMITTEE.

The agency shall designate all owners and operators of the waste tire facility as copermitees when issuing a waste tire facility permit.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0260 WASTE TIRE FACILITY PERMIT APPLICATION PROCEDURES.

Subpart 1. Form. The application for a waste tire facility permit consists of a general application that includes the appropriate supporting documents, map, and additional application information specific to the facility that is the subject of the application. The content requirements of the general permit application are set forth in part 9220.0270. The additional application information requirements specific to the facility type are set forth in parts 9220.0280 to 9220.0310, and must be submitted with the permit application.

Subp. 2. Submittal. Applicants for a waste tire facility permit shall submit a completed permit application to the commissioner, and a copy to the county where the facility is located or proposed to locate, and shall retain a copy for their records.

Subp. 3. Time of submittal. A person shall submit a permit application in accordance with items A and B.

A. For a waste tire processing or storage facility, a person shall submit a permit application at least 180 days before the planned date of facility construction for a new facility or for an existing facility no later than 90 days after May 23, 1988.

B. For a waste tire transfer facility, a person shall submit a permit application at least 90 days before the planned date of facility construction for a new facility or for an existing facility no later than 90 days after May 23, 1988.

Subp. 4. Renewal of existing permit. A written application for renewal of an existing permit must be submitted 90 days before the expiration date of the existing permit.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0270 WRITTEN APPLICATION.

Subpart 1. Scope. A person who requests the issuance or renewal of a permit shall complete, sign, and submit to the commissioner a written application in a form prescribed by the commissioner. The application must contain the information in subparts 2 to 10. If a provision does not apply to the particular facility, the applicant shall explain why the provision does not apply.

Subp. 2. General facility information. The application must include the following:

A. the name, address, and telephone number of all owners and operators of the facility for which the application is submitted and identification of each applicant as an individual, business, partnership, public entity, or other entity;

B. the name, address, and telephone number of the person who prepared the application; and

C. an indication of whether the facility to be permitted is new or existing.

Subp. 3. Description of facility operation. The application must include a description of the following:

A. the type of facility operation, the manner in which waste tires will be collected at the facility, and how those waste tires will be stored, processed, or used;

B. the quantity and type of waste tires stored at the facility currently and the maximum quantity and type of waste tires to be stored at the facility at any time;

C. the facility's ability to meet the technical standards that apply to waste tire storage of part 9220.0450, subpart 3, items D to G;

D. the present use of the land at the site of the facility and of the land within a one-quarter mile radius of the facility, identifying the landowners and their addresses, and zoning designation;

E. weight and use restrictions on the access roads that lead to the site;

F. the location of the facility and whether that location complies with the restrictions established in part 9220.0450, subpart 2;

G. the types, sizes, conditions, and availability of equipment needed for operation and emergency response at the facility, and the functions of each piece of equipment described;

H. the security procedures and the location of fences, gates, and other access control measures;

I. the relationship of the facility to the applicable county solid waste management plan, and the area to be served by the facility; and

J. the expected operating life of the facility and how this number was calculated.

Subp. 4. **Map required.** The application must include a topographic or section map using a scale of no less than one inch equals 200 feet. This map must show the waste tire facility and surrounding area for one quarter mile in detail. At a minimum, the map must show the following:

A. the map scale and directions;

B. wetlands, floodways, shorelands, and surface waters, including intermittent streams;

C. legal boundaries and land ownership, including county, township, and municipal boundaries; township, range, and section numbers; and easements and rights-of-way;

D. the locations of wells, both operating and abandoned;

E. occupied dwellings;

F. the facility design and the location of all waste tire storage areas and fire lanes;

G. all structures and buildings that are or will be constructed at the facility, including those used in collection, storage, or processing operations;

H. loading and unloading areas;

I. access and internal roads;

J. runoff control measures, ditches, and dikes; and

K. the location of the area used for collection, storage, or processing of waste tires, tire-derived products, and residuals from processing; and the total land area in square feet used for storage of waste tires, tire-derived products, and residuals from processing.

Subp. 5. **Closure plan.** The application must include a plan for closing the facility in compliance with part 9220.0500.

Subp. 6. **Closure cost estimate.** The application must include a closure cost estimate prepared following the procedures in part 9220.0570.

Subp. 7. **Copy of financial assurance mechanism.** The application must include a copy of the financial assurance mechanism required by part 9220.0560.

Subp. 8. **Other information.** The applicant shall submit other information relevant to the application as requested by the commissioner or as required by parts 9220.0280 to 9220.0310.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0280 ADDITIONAL APPLICATION INFORMATION REQUIRED FOR WASTE TIRE TRANSFER FACILITIES.

The application for a waste tire transfer facility must include the following information in addition to the information required by part 9220.0270:

- A. a description of the types of vehicles that the facility will service;
- B. information on how the accumulation of waste tires at the transfer facility will be controlled so that no more than 10,000 passenger tires or the equivalent weight of other waste tires will be present at the transfer facility at any time; and
- C. information on the type, size, and capacity of storage that will be present at the facility, designating drop boxes, containers, trailers, or stockpiles.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513*

9220.0290 ADDITIONAL APPLICATION INFORMATION REQUIRED FOR WASTE TIRE PROCESSING FACILITIES.

The application for a waste tire processing facility must include the following information in addition to the information required by part 9220.0270:

- A. the maximum quantity and type of tire-derived products and residuals from processing to be stored on the site at any time, specifying the quantity and type of tire-derived products and residuals from processing stored on the site currently and how they are being stored;
- B. a description of the processes and procedures used at the facility for processing waste tires;
- C. the processing capacity of the facility, and the number of tons of waste tires currently being processed;
- D. a description of how the facility will comply with the 75 percent annual processing requirement of part 9220.0470, subpart 2;
- E. a description of how residuals from processing will be disposed of;
- F. the existing and proposed markets for the facility's tire-derived products; and
- G. a copy of the emergency preparedness manual required by part 9220.0470, subpart 4.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513*

9220.0300 ADDITIONAL APPLICATION INFORMATION REQUIRED FOR WASTE TIRE STORAGE FACILITIES.

The application for a waste tire storage facility must include the following information in addition to the information required by part 9220.0270:

- A. the procedures that will be used at the facility to minimize or prevent mosquito and rodent breeding in the waste tire stockpiles;
- B. a copy of the emergency preparedness manual required by part 9220.0270, subpart 4; and
- C. information on how the accumulation of waste tires at the waste tire storage facility will be controlled so that no more than 500,000 passenger tires or the equivalent weight of other waste tires are ever stored at the facility.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513*

9220.0310 SIGNATURES.

A permit application must be signed by all owners and operators. If an owner or operator is a corporation, the president or executive officer of the corporation shall sign. If an owner or operator is a partnership, two partners shall sign. If an owner or operator is a governmental unit, a certification of the signer's authority must be included.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513*

9220.0320 PROVISIONAL STATUS.

Subpart 1. **Scope.** When the owner of a waste tire facility submits a permit application, the facility is considered provisionally permitted. Provisionally permitted facilities must conform to the requirements and standards described in part 9220.0450, except that the annual report required by part 9220.0450, subpart 4, is not required while the waste tire facility has provisional status.

Subp. 2. **Termination of provisional status by permitting, closure, or denial of permit.** Provisional status terminates when a permit is issued, when the commissioner verifies that closure is complete, or when the agency denies a permit.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0330 REVIEW OF PERMIT APPLICATIONS.

The commissioner shall review all permit applications for completeness. If the commissioner finds that the application is incomplete or otherwise deficient, the commissioner shall promptly advise the applicant in writing and suspend further processing of the portion of the application affected by the deficiency until the applicant has supplied the necessary information or otherwise corrected the deficiency.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0340 PUBLIC NOTICE.

Subpart 1. **Scope.** Before the agency acts to issue, renew, modify, revoke, or deny a permit, the commissioner shall seek public comment on the action, unless specifically exempted from this requirement under part 9220.0410.

Subp. 2. **Public notice contents.** The commissioner shall prepare and issue a public notice of an intended agency action. The public notice must include, at a minimum:

A. the address and telephone number of the agency office and a statement that additional information may be obtained at this office;

B. the names and addresses of all applicants or permittees, and of the facility that is the subject of the action;

C. a concise description of the facility that is the subject of the action;

D. a statement of the action the commissioner intends to request the agency to take;

E. for action involving the issuance or renewal of permits, the duration of the permit that the commissioner intends to request the agency to issue or renew;

F. a brief description of the procedures and standards for public comments, and the dates on which the public comment period begins and ends; and

G. a brief description of the procedures the agency will follow in reaching a decision on the commissioner's intended action, and the procedures to be followed for requesting a public information meeting or contested case hearing.

Subp. 3. **Duration of notice period.** Unless extended by the commissioner, the public notice period is 30 days.

Subp. 4. **Distribution of public notice.** The commissioner shall distribute the public notice in the following manner:

A. A copy of the public notice must be available at the agency office.

B. A copy must be mailed to the applicant.

C. A copy must be mailed to the county where the facility is located or proposed to be located.

D. Copies must be circulated in the geographic area within a 45-mile radius of the planned or existing facility. The commissioner shall circulate the public notice in one or more of the following ways:

(1) by posting the notice in the post office, public library, or other buildings used by the general public;

(2) by posting the notice at or near the entrance of the applicant's premises, if located near the facility that is the subject of the permit application; or

(3) by publishing the notice in one or more newspapers or periodicals of general circulation in the designated geographical area.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0350 PUBLIC COMMENTS.

Subpart 1. **Written comments.** During the public comment period established in the public notice, any interested person may submit written comments on the action before the agency. To be considered by the agency in taking the action, comments must be in writing and must include the following:

- A. a statement of the person's interest in the action;
- B. a statement of the action the person wishes the agency to take; and
- C. the reasons why the person wants the agency to take the action.

Subp. 2. **Public information meeting or contested case hearing request.** During the public comment period and at the agency meeting where the action is proposed to be taken, a person may request a public informational meeting or contested case hearing.

Subp. 3. **Extension of comment period.** The public comment period may be extended if the commissioner finds an extension of time is necessary to facilitate additional public comment. Notice of the extension of the comment period must be given in the same manner as the original notice.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0360 PUBLIC INFORMATION MEETING.

Subpart 1. **Determination of need.** If the commissioner or the agency determines that a public information meeting would help clarify and resolve issues regarding action on a permit, the commissioner shall hold a public information meeting.

Subp. 2. **Location.** The public information meeting must be held in the geographical area of the facility that is the subject of the action or at a place selected by the commissioner that is generally convenient to persons expected to attend the meeting.

Subp. 3. **Content of notice.** The commissioner shall publish a notice of the public information meeting. The notice must contain a reference to the action and the date, time, and location of the public information meeting and the issues to be discussed.

Subp. 4. **Distribution of notice.** The commissioner shall publish the notice in a newspaper of general circulation in the geographical area of the facility or activity that is the subject of the action, and shall mail a copy of the notice to the affected persons, the appropriate city and county officials, and all other persons who have indicated an interest in the permit application.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0370 CONTESTED CASE HEARING.

Subpart 1. **Hearing required.** The agency shall hold a contested case hearing if it finds all of the following:

- A. that a person requesting the contested case hearing has raised a material issue of fact or of the application of facts to law related to the commissioner's proposed action;
- B. that the agency has jurisdiction to make determinations on the issues of fact or of the application of facts to law raised by the persons requesting the contested case hearing;
- C. that the record before the agency is not adequate to allow the agency to resolve a material issue of fact or of the application of facts to law raised by the person requesting the

hearing, and that a contested case hearing would result in the creation of a record that would allow the agency to resolve the issues raised; and

D. that the person requesting the contested case hearing would be affected by the agency's action.

Subp. 2. Hearing notice and order. If the agency decides to hold a contested case hearing, the commissioner shall prepare a notice of and order for hearing. The notice of and order for hearing must contain:

A. the information required by part 1400.5600 to the Office of Administrative Hearings;

B. a reference to the public notice of the agency action and the date of issuance of the public notice;

C. identification of the affected parties and a concise description of the issues that have been raised by any party; and

D. the address of the agency office where interested persons may inspect or obtain copies of the public notice of the agency action, and other information relevant to the agency action.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0380 FINAL DETERMINATION.

Subpart 1. Agency action. The agency shall issue, renew, or modify a permit if it determines that the proposed permittees will comply with all permit conditions and applicable state or federal statutes and rules, or will undertake a schedule of compliance that will result in the facility being operated in compliance with state or federal statutes and rules.

Subp. 2. Denial of permit. The agency shall refuse to issue a new permit or to modify or renew an existing permit if it finds:

A. that the proposed facility or permittee will not comply with all applicable state and federal statutes and rules or conditions of the permit;

B. that there exists at the facility unresolved noncompliance with applicable state or federal statutes and rules or conditions of the permit and that the permittee will not undertake a schedule of compliance to resolve the noncompliance;

C. that the permittee has failed to disclose fully all facts relevant to the facility to be permitted, or that the permittee has submitted false or misleading information to the agency or to the commissioner;

D. that the permitted facility endangers human health or the environment and that the danger cannot be removed by a modification of the conditions of the permit; or

E. that applicable requirements of Minnesota Statutes, chapter 116D, and the rules adopted under Minnesota Statutes, chapter 116D, have not been fulfilled.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0390 TERMS AND CONDITIONS OF PERMITS.

Subpart 1. Term of permit. A waste tire facility permit must be issued for up to five years.

Subp. 2. Special conditions. Each permit must require the facility to be operated consistent with the application for the facility permit, conditions placed by the agency on permit approval, and all applicable state and federal statutes and rules. If the facility receiving the permit is not in compliance with any applicable state or federal statute or rule at the time of issuance, the permit must require the permittees to achieve compliance with the statute or rule within a reasonable period of time.

Subp. 3. General conditions. Unless specifically exempted by statute or rule, each permit must include the following general conditions, and the agency shall incorporate these conditions into all permits either expressly or by specific reference to this part:

A. The agency's issuance of a permit does not release the permittee from any liability, penalty, or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the permit.

B. The agency's issuance of a permit does not prevent the future adoption by the agency of rules or orders more stringent than those in existence at the time the permit is issued and does not prevent the enforcement of these rules or orders against the permittee.

C. The permit does not convey a property right or an exclusive privilege.

D. The permittee may not knowingly make a false or misleading statement, representation or certification in a record, report, plan, or other document required to be submitted to the agency or to the commissioner by the permit. The permittee shall immediately upon discovery report to the commissioner an error or omission in these records, reports, plans, or other documents.

E. Upon presentation of proper credentials, the agency or an authorized employee or agent of the agency, shall be allowed by the permittee to enter the permitted facility at reasonable times to examine and copy books, papers, records, or memoranda pertaining to the facility, and to conduct surveys and investigations pertaining to the facility.

F. If the permittee discovers, through any means, including notification by the agency, that noncompliance with a condition of the permit has occurred, the permittee shall take all necessary steps to minimize the adverse impacts on human health, welfare, or the environment.

G. If the permittee discovers that noncompliance with a condition of the permit has occurred that could endanger human health, welfare, or the environment, the permittee shall immediately notify the commissioner.

H. The permit is not transferable to any person except as provided in part 9220.0410, subpart 2.

I. The permit authorizes the permittee to perform the activities described in the permit under the conditions of the permit. In issuing the permit, the state and agency assume no responsibility for damage to person, property, or the environment caused by the activities of the permittee in the conduct of its actions, including those authorized, directed, or undertaken under the permit. To the extent the state and agency may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.736.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0400 CONTINUATION OF EXPIRED PERMIT.

A person who holds an expired permit and who submits a timely and complete application for renewal may continue to conduct the permitted activity until the agency takes final action on the application if the commissioner determines that both of the following are true:

A. the permittee is in compliance with the terms and conditions of the expired permit; and

B. the commissioner, through no fault of the permittee, has not taken final action on the application on or before the expiration date of the permit.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0410 MODIFICATION OR TRANSFER OF PERMIT.

Subpart 1. Modification. The commissioner shall modify a permit if the modification is needed to reflect changed state or federal statutes or rules applicable to the facility, to incorporate changes in a facility closure plan or emergency response manual, or to make other modifications consented to by the permittees. The procedures for giving public notice established in part 9220.0340 do not apply to permits modified by the commissioner under this subpart if the commissioner finds that the modification would not result in a significant change in facility operation. For all other modifications, the commissioner shall follow the public notice procedures of part 9220.0340, and the agency shall determine whether the permit should be modified.

Subp. 2. **Change in facility ownership or operation.** The following conditions apply to the change in facility ownership or operation.

A. Before any change in facility ownership or operation, a written request for transfer of the permit must be submitted to and approved by the agency. The request for transfer must indicate the reason the permit transfer is being requested, must be signed by all existing permittees and all persons seeking to become permittees, and must contain all information required in part 9220.0270, subpart 2.

B. If the commissioner finds that the proposed transfer of the permit would not affect present or future compliance with the permit, the commissioner shall give the public notice of the commissioner's intent to transfer the permit following the procedures in parts 9220.0340 to 9220.0370.

C. The agency shall approve the transfer of the permit if it determines that the new permittee or permittees will comply with all permit conditions and all applicable laws and rules. After approval, permit transfer occurs when the change in facility ownership or operation becomes effective. In the event that the expected change in facility ownership or operation does not occur, the owners and operators remain fully responsible under the terms of the permit.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0420 REVOCATION OF PERMIT.

Subpart 1. **Justification for revocation.** The following constitute justification for the commissioner to begin proceedings to revoke a permit:

A. existence at the facility of unresolved noncompliance with the permit or applicable state and federal statutes and rules, and the permittee is unwilling or unable to resolve the noncompliance;

B. the operation of the facility has terminated; or

C. the commissioner finds that the facility endangers human health or the environment and that the danger cannot be removed by a modification of the permit.

Subp. 2. **Procedure for revocation.** The commissioner shall give notice of the commissioner's intent to revoke a permit by following the procedures in part 9220.0340. This notice must state that the permittee may request that a contested case hearing be held on the proposed action. If the agency grants a contested case hearing, the agency shall hold the hearing in accordance with the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8500.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 c 5*

9220.0430 INTERACTION OF PERMIT AND ABATEMENT RULES.

If a tire collector wishes to obtain an agency permit for a site that is the subject of an abatement action, the tire collector shall notify the commissioner of this intent within 90 days of May 23, 1988, or at the time the abatement plan is submitted and agree to develop a plan for bringing the site into compliance with the technical rules for waste tire transfer, processing, or storage facilities. Notification and agreement under this part does not exempt the owner or operator of a facility that is the subject of an abatement action from the duty to obtain a permit by following the procedures in parts 9220.0260 to 9220.0310 for activities other than the abatement action.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

WASTE TIRE FACILITY STANDARDS

9220.0440 RULE CONFLICTS.

Nothing in parts 9220.0440 to 9220.0680 relieves any person from obligations or duties imposed by other laws, statutes, rules, standards, or ordinances of the federal, state, or local

governments or any agency thereof now in effect or that become effective in the future. In the event parts 9220.0440 to 9220.0680 conflict with any of those laws, statutes, rules, standards, or ordinances, the more stringent provisions apply.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513*

9220.0450 GENERAL STANDARDS FOR PERMITTED FACILITIES.

Subpart 1. **Scope.** All permitted waste tire facilities must comply with the technical and operational standards in this part. In addition, each permitted facility must comply with requirements specific to the operation conducted at the facility and any special conditions as specified in parts 9220.0460 to 9220.0480 established in a permit.

Subp. 2. **Location of facility.** A waste tire facility must not be constructed or operated in a wetland, sinkhole, shoreland, ravine, floodway, or any area where it may be subjected to immersion in water.

Subp. 3. **Operation.** A waste tire facility must be operated in compliance with the following standards:

A. No operations involving the use of open flames, blow torches, or highly flammable substances must be conducted within 50 feet of a waste tire pile.

B. An approach and access road to the waste tire facility must be maintained passable for any vehicle at all times. Access to the facility must be strictly controlled through the use of fences, gates, or other means of controlling access.

C. An attendant shall be present at all times the waste tire facility is open for business.

D. A waste tire storage area must be designated. Only waste tires and tire-derived products may be stored in the designated waste tire storage area. This area must be maintained free of vegetation.

E. Waste tires stored indoors must be stored under conditions that meet or exceed those in the current edition of The Standard for Storage of Rubber Tires, National Fire Protection Association (NFPA) 231D, written by the NFPA Committee on Standards for Rubber Tires, published by the NFPA Standards Council. This publication is available at the Minnesota State Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155; the Office of Public Safety, Fire Marshal Division; or any local fire department. This publication is incorporated by reference and is not subject to frequent change.

F. No waste tire pile must have an area greater than 10,000 square feet or a vertical height greater than 20 feet.

G. A 50-foot fire lane must be placed around the perimeter of each waste tire pile. Access to the fire lane for emergency vehicles must be unobstructed at all times. The fire lane must be maintained free of rubbish and vegetation at all times.

H. All tire piles must be maintained free of mosquitoes and rodents.

I. Surface water drainage must be diverted around and away from the waste tire storage area.

Subp. 4. **Annual report.** A permittee of a waste tire facility shall submit a report containing the following information to the commissioner annually, on March 1 of each year:

A. the facility name, address, and permit number;

B. the year covered by the report;

C. the total quantity and type of waste tires or weight of tire-derived products received at the facility during the year covered by the report;

D. the total quantity and type of waste tires or weight of tire-derived products shipped from the facility during the year covered by the report;

E. the total quantity and type of waste tires and weight of tire-derived products located at the facility on the date of reporting;

F. for all waste tires and tire-derived products shipped from the facility, the name and waste tire transporter identification number of the transporter who accepted the waste

tires or tire-derived products for transport, and the quantity of waste tires or volume of tire-derived products shipped with that transporter; and if the waste tires were shipped with a person who is not a waste tire transporter, the number of tires shipped, the person's name and telephone number, and the place where the tires were deposited;

G. for all waste tires and tire-derived products received at the facility, the name and waste tire transporter identification number of the transporter who delivered the waste tires or tire-derived products to the facility, and the quantity of waste tires or volume of tire derived products received from that transporter; and if the waste tires were delivered by a person who is not a waste tire transporter, the number of tires delivered and the person's name and telephone number;

H. for all waste tires removed for recapping, the quantity and type removed, and the name and location of the recapping facility receiving the tires; and

I. the most recent closure cost estimate prepared using the criteria in part 9220.0570.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0460 WASTE TIRE TRANSFER FACILITY STORAGE LIMITATION.

Waste tires stored at the waste tire transfer facility must be limited to 10,000 passenger car tires or the equivalent weight of other waste tires. In addition, all waste tires received at the facility must be transported to a permitted waste tire processing facility at least twice annually or unless otherwise provided in the facility's permit.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513*

9220.0470 ADDITIONAL STANDARDS FOR WASTE TIRE PROCESSING FACILITIES.

Subpart 1. **Scope.** This part sets out the additional standards that apply to the operation of a permitted waste tire processing facility in addition to the general standards in part 9220.0450. To qualify for regulation as a waste tire processing facility, the standards in part 9220.0450 must be met.

Subp. 2. **Storage limitation.** A waste tire processing facility must not store more than 70,000 passenger car tires or the equivalent weight of other tires or tire-derived products at any time. Waste tires stored must be limited to one pile of waste tires and one pile of tire-derived product meeting the limits in part 9220.0450, subpart 3, item F, of the general facility standards. In addition, at least 75 percent of the waste tires and tire-derived products that are delivered to or are contained on the site of the waste tire processing facility at the beginning of each year must be processed and removed from the facility during the year.

Subp. 3. **Emergency equipment.** Equipment for communications and the control of fires must be provided and maintained at the waste tire processing facility at all times.

Subp. 4. **Emergency preparedness manual.** The operator of the waste tire processing facility shall maintain an emergency preparedness manual at the facility. This manual must be submitted to the commissioner with the permit application. Once approved, the manual becomes part of the permit. This manual must be updated if a change in the operations of the waste tire processing facility occurs, or if the commissioner requests an update. This emergency preparedness manual must, at a minimum, contain:

A. a list of names and telephone numbers of persons to be contacted in the event of a fire, flood, or other emergency involving the waste tire processing facility;

B. a list of the emergency response equipment present at the waste tire processing facility or available for use at the facility, the location of the equipment, and how it should be used in the event of a fire or other emergency;

C. the procedures to be followed by facility personnel from discovery of an emergency until the situation is corrected, including the measures that will be taken to minimize the occurrence, recurrence, or spread of fires, explosions, and releases;

D. the locations of known water supplies, fire hydrants, dry chemical extinguishers, or other materials that may be used for firefighting purposes; and

E. additional relevant information.

No emergency preparedness manual shall be approved unless the permittee demonstrates that arrangements to acquire police and fire protection services for the waste tire processing facility have been made.

Subp. 5. **Emergency procedures.** The operator of the waste tire processing facility shall implement the emergency procedures of subpart 4, item C, in the event of a fire or other emergency.

Subp. 6. **Emergency notification and reports.** The operator of the waste tire processing facility shall immediately notify the commissioner in the event of a fire or other emergency with potential off site impacts. Within one week of correcting an emergency situation at the waste tire processing facility, the permittee of the facility shall submit to the commissioner a report on the emergency. This report must set out the type of emergency, the date and time of the emergency, the origins of the emergency, the actions that were taken to respond to the emergency, the results of the actions that were taken, and an analysis of the success or failure of the actions.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0480 ADDITIONAL STANDARDS FOR WASTE TIRE STORAGE FACILITIES.

Subpart 1. **Scope.** This part sets out the standards that apply to the operation of a permitted waste tire storage facility in addition to the general standards in part 9220.0450. A waste tire facility that cannot qualify for regulation as a waste tire transfer facility or as a waste tire processing facility must comply with the standards in this part.

Subp. 2. **Emergency preparedness standards.** Waste tire storage facilities must comply with the emergency preparedness standards for waste tire processing facilities in part 9220.0470, subparts 3 to 6.

Subp. 3. **Storage limitation.** No waste tire storage facility shall store more than 500,000 passenger car tires or the equivalent weight of other waste tires or tire-derived products at any time.

Subp. 4. **Additional information.** In addition to the information required to be submitted in the annual report required under the general facility standards of part 9220.0450, subpart 4, the operator of the waste tire storage facility shall submit information on the procedures used at the facility to minimize or prevent mosquito breeding and rodent infestation, including the dates when mosquito or rodent control operations were conducted.

Subp. 5. **Removal of soil contaminated with pyrolytic oil.** If pyrolytic oil is released at the waste tire facility, the permittee shall remove contaminated soil in accordance with any applicable rules governing the removal, transportation, and disposal of the material.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513*

9220.0490 CLOSURE.

Subpart 1. **Closure required.** The owner or operator of a waste tire facility shall cease to accept waste tires and immediately close the facility in compliance with any special closure conditions established in the permit, this part, and part 9220.0500, if:

- A. the owner or operator declares the facility closed;
- B. the owner or operator fails to maintain adequate financial assurance;
- C. the agency permit for a facility expires and renewal of the permit is not applied for, or is applied for and denied;
- D. the agency permit for the facility is revoked;
- E. an agency order to cease operations is issued;

F. an agency stipulation agreement specifies closure is to begin; or

G. the owner or operator of a permitted facility has failed to receive and ship waste tires for a continuous six month period.

Subp. 2. Submittal of closure plan. The owner or operator of a waste tire facility shall submit to the commissioner a closure plan with the permit application, or as required by an order or stipulation agreement. The commissioner shall approve the closure plan as part of the permit issuance procedure or as part of a submittal required by a stipulation agreement or order. Compliance with the approved closure plan must be made a condition of any permit, order, or stipulation agreement. No closure plan shall be approved unless the closure plan is consistent with this part and the applicable closure requirements of part 9220.0500.

Subp. 3. Contents of closure plan. The closure plan must include:

A. a description of the facility's operation, including the maximum inventory of waste tires and tire-derived products that will be collected at the facility at any time during the operating life of the facility;

B. when or under what circumstances the facility will close;

C. how all waste tires and tire-derived products will be removed from the facility upon closure, and what end use is planned for the waste tires and tire-derived products; and

D. a schedule for the applicable closure procedures of part 9220.0500, including the time period for completing the closure procedures.

Subp. 4. Amendment of the plan. The permittee may amend the closure plan at any time during the life of the facility. Any amendments to the closure plan must be submitted to and approved by the commissioner before they become effective. The permittee shall amend the closure plan and submit the amended plan to the commissioner for approval whenever changes in the operating plan or facility design affect the closure procedures required, or whenever the expected year of closure changes.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0500 CLOSURE PROCEDURES.

Subpart 1. Time for completion of closure. Unless otherwise approved in a waste tire facility closure plan, the owner or operator shall within 90 days complete the closure procedures of subpart 2.

Subp. 2. Closure procedures. If the conditions of part 9220.0490, subpart 1, exist, the owner or operator shall:

A. close public access to the facility;

B. post a gate notice indicating to the public that the facility is closed and indicating the nearest facility where waste tires can be deposited;

C. notify the agency, local units of government, local land use authorities, and fire and health authorities of the closing of the facility;

D. remove all solid waste to a permitted solid waste facility;

E. remove all waste tires to a waste tire processing facility that has a permit or provisional status;

F. remove all tire-derived products to a market; and

G. notify the commissioner when the closure activities are completed.

Subp. 3. Acceptance of removed tires. If a waste tire processing facility is not available to accept the waste tires removed under subpart 2, item E, the commissioner shall approve shipment of the waste tires to a waste tire storage or transfer facility willing and able to accept the waste tires.

Subp. 4. Certification of closure. After receiving certification from the owner or operator of the facility that the closure procedures have been completed in accordance with subpart 2, the commissioner shall inspect the facility site. If all procedures have been correctly completed, the commissioner shall verify that the facility has been closed in compliance with

parts 9220.0440 to 9220.0500, and that all duties established by parts 9220.0440 to 9220.0500, and by the facility permit, have been discharged.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0510 PETITION PROCEDURES.

Subpart 1. **Scope.** This part sets out the procedures for submitting a petition for an exemption from the 75 percent annual processing requirement in part 9220.0470, subpart 2.

Subp. 2. **Submission of the petition.** The permittee of a waste tire processing facility may petition the commissioner for an exemption from the 75 percent annual processing requirement by submitting a petition containing the information described in subpart 3, as soon as the permittee becomes aware that compliance with the 75 percent annual processing requirement cannot be achieved.

Subp. 3. **Information required.** The petition for an exemption from the 75 percent annual processing requirement must contain information sufficient to allow the commissioner to find:

A. that the 75 percent annual processing requirement will be met in the year following the year for which the exemption is obtained;

B. that an exemption from the 75 percent annual processing requirement will not cause the facility to be out of compliance with any other standard applicable to the facility; and

C. that an exemption from the 75 percent annual processing requirement will not cause the facility to become a hazard to human health, natural resources, or the environment.

Subp. 4. **Determination by the commissioner.** If the commissioner, upon evaluation of the information submitted as part of the petition, makes the findings listed under subpart 3, the commissioner shall grant the petition. The commissioner shall determine whether the petition shall be granted within 60 days of receiving a petition containing information sufficient for the commissioner to make the required findings. An exemption granted under this part is valid for one year. The commissioner shall not grant the permittee of a waste tire processing facility an exemption from the 75 percent annual processing requirement for any two consecutive years.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

GENERATION AND TRANSPORTATION

9220.0520 WASTE TIRE DISPOSAL.

Subpart 1. **Scope.** The requirements of subpart 2 apply to all persons who dispose of waste tires. The requirements of subpart 3 apply only to persons who dispose of more than 100 waste tires in a calendar year.

Subp. 2. **Waste tire disposal.** On and after 90 days from May 23, 1988, any person who disposes of waste tires, and who contracts or arranges with a person for their disposal, shall only contract or arrange for disposal of waste tires with a person displaying a waste tire transporter identification number, or a person exempt under part 9220.0530, subpart 3.

Subp. 3. **Record keeping.** All persons who dispose of more than 100 waste tires in a calendar year shall maintain a record of the quantity and type of waste tires sent for disposal. For shipments made under subpart 2, this record must also note the name of the person transporting the waste tires, the identification number of the waste tire transporter, if applicable, and the date of the transaction. For persons who transport their own waste tires for disposal, this record must also note the date of shipment and the name of the waste tire facility where the waste tires were delivered. When requested by the commissioner, the record must be made available for inspection. The record must be retained for three years from the date of the transaction.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0530 WASTE TIRE TRANSPORTATION.

Subpart 1. **Scope.** This part sets out the requirements that apply to persons who are in the business of transporting waste tires.

Subp. 2. **Exempt persons.** The requirements of this part do not apply to:

A. a person transporting household quantities of waste tires incidental to municipal waste collection, and who delivers those waste tires to a permitted solid waste facility, a waste tire facility with a permit or provisional status, or a waste tire facility that is exempt from the requirement to obtain a waste tire permit;

B. a person receiving waste tires incidental to the collection of recyclable materials and who delivers those waste tires to a permitted solid waste facility, a waste tire facility with a permit or provisional status, or a waste tire facility that is exempt from the requirement to obtain a waste tire facility permit;

C. a person transporting no more than ten waste tires to a permitted solid waste facility, a waste tire facility with a permit or provisional status, or a waste tire facility that is exempt from the requirement to obtain a waste tire facility permit;

D. a person transporting waste tires that will only be used for agricultural purposes;

E. a person transporting tire-derived products to a market; and

F. a business delivering its own waste tires to a waste tire facility that has obtained provisional status or a permit or is exempt under part 9220.0230, subpart 2, to obtain a waste tire facility permit.

Subp. 3. **Agency identification number required.** Except as exempted by subpart 2, a person who transports waste tires must obtain and display a waste tire transporter identification number when transporting waste tires. The information that must be submitted to the commissioner to obtain an agency identification number is specified in part 9220.0540. The agency's issuance of a waste tire transporter identification number does not release the transporter from any liability, penalty, or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the waste tire transporter identification number.

Subp. 4. **Waste tire transportation.** A transporter who collects waste tires from a person who disposes waste tires shall deliver the waste tires to a waste tire facility with a permit or provisional status, or a waste tire facility that is exempt from the requirement to obtain a waste tire permit.

Subp. 5. **Record keeping.** Transporters shall record and maintain the following information regarding their activities for each month of operation:

A. the type and quantity of waste tires collected;

B. where the waste tires collected were deposited, specifying the number and type deposited at each location; and

C. where or from whom the waste tires were collected.

Subp. 6. **Submittal of operating record.** Transporters shall submit to the commissioner an operating record that identifies the transporter by name and identification number, and that summarizes the information accumulated under subpart 5 for the three months preceding the month the record is to be submitted. This record must be submitted April 10, July 10, October 10, and January 10 of each year.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0540 TRANSPORTER APPLICATION REQUIREMENTS.

Subpart 1. **Scope.** A person required to obtain a waste tire transporter identification number under part 9220.0530, subpart 3, shall follow the procedures established in subpart 2.

Subp. 2. **Application.** To obtain a waste tire transporter identification number and approval to transport waste tires, a transporter shall submit a written application to the commissioner. For a transporter currently transporting waste tires, the application must be submitted

not more than 60 days after May 23, 1988. For a new transporter, the application must be submitted 15 days before the transporter begins transporting waste tires. The application must contain the following information:

- A. the name, address, and telephone number of the person who will be transporting waste tires; and if a company will be transporting waste tires, the name, address, and telephone number of the officers of the company, along with an identification of the number of drivers that will be transporting tires for the company;
- B. the geographical area that will be served;
- C. the type of vehicle or trailer or both vehicle and trailer that will be used, the license number, and registered vehicle owner;
- D. where the waste tires will be collected, and where delivered or deposited; and
- E. an estimate of the quantity and type of waste tires that will be collected quarterly.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

WASTE TIRE FACILITY FINANCIAL ASSURANCE REQUIREMENTS

9220.0550 SCOPE.

Parts 9220.0550 to 9220.0680 apply to owners and operators of waste tire facilities, except those who are exempt from the requirement to obtain a waste tire facility permit under part 9220.0230, subpart 2, or are permitted by rule under part 9220.0240.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513*

9220.0560 FINANCIAL ASSURANCE REQUIRED.

The owner or operator of a waste tire facility shall establish financial assurance for closure of the facility within the time periods established in part 9220.0580, by obtaining one or more of the financial assurance mechanisms approved by the commissioner, or by obtaining a county held financial assurance mechanism that has been approved by the commissioner.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0570 COST ESTIMATE FOR CLOSURE.

Subpart 1. **Average cost of closure estimate.** The commissioner shall calculate the average cost of closure of a waste tire facility by examining the cost of transportation of waste tires to processing facilities and the average cost of processing waste tires in the state. The commissioner shall express the average cost of closure through use of a per tire average cost figure.

Subp. 2. **Amount.** The amount of financial assurance to be provided by the owner or operator of a waste tire facility must be greater than or equal to the closure cost estimate derived by multiplying the commissioner's estimate of the per tire statewide average cost of closure by the maximum number of tires that will be maintained at the facility as stated in the permit application part 9220.0270, subpart 3, item B.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0580 SCHEDULE FOR ESTABLISHING FINANCIAL ASSURANCE.

Subpart 1. **Surety bond or letter of credit.** The owner or operator of a waste tire facility shall submit evidence to the commissioner with the permit application that a bond or a letter of credit has been obtained.

Subp. 2. **Closure trust fund.** Waste tire facilities shall make annual payments into a closure trust fund. The first payment must be made six months after the date the waste tire

facility permit is issued by the agency. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The minimum amount of each payment must be determined by the formula in part 9220.0610, subpart 5. Evidence of the establishment of a closure trust fund must be submitted with the permit application.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0590 ADJUSTMENTS TO FINANCIAL ASSURANCE LEVEL.

Subpart 1. **Annual recalculation.** The commissioner shall recalculate annually the per tire statewide average cost of closure. If a change is made in the statewide average, the commissioner will notify all permittees by mail.

Subp. 2. **Change in closure cost estimate.** If the closure cost estimate for a permitted waste tire facility increases, the permittee shall adjust the level of financial assurance as specified in parts 9220.0610 to 9220.0640.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0600 COUNTY HELD FINANCIAL ASSURANCE MECHANISM.

Subpart 1. **Scope.** An owner or operator of a waste tire facility may use a county held financial assurance mechanism to satisfy the requirements of part 9220.0540.

Subp. 2. **Action by county.** A county controlling financial assurance for a waste tire facility shall take all actions needed to gain access to the funds available through the financial assurance mechanism when the owner or operator of the waste tire facility has failed to:

A. begin or complete closure as required by the permit or part 9220.0500;

B. provide alternate financial assurance and obtain written approval of the financial assurance from the commissioner and the county within the time period required by part 9220.0580; or

C. fund the standby trust fund within the specified time period as required by part 9220.0620.

Subp. 3. **Action by commissioner.** In the event that the county has failed to gain access to the funds available through the financial assurance mechanism within 30 days of the owner's or operator's failure to perform as specified in subpart 2, or if the county has failed to use any funds obtained under subpart 2 to close the facility in compliance with the closure plan or part 9220.0490, the commissioner shall be given access to the funds. The county shall take no action that interferes with the commissioner's access to the funds, and shall cooperate with the commissioner if necessary to allow the commissioner to gain access to the funds.

Subp. 4. **Notice.** In the event that the commissioner takes action under subpart 3, the commissioner shall give notice of this action to the county and all other involved parties, including the owner or operator of the waste tire facility, and any trustee, surety, or letter of credit institution. Failure by the commissioner to give notice does not invalidate the commissioner's actions under subpart 3.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0610 CLOSURE TRUST FUND.

Subpart 1. **Scope.** Subparts 2 to 13 apply to closure trust funds. For trust funds held by a county under part 9220.0600, provisions in this part that refer to the commissioner apply to both the commissioner and the county.

Subp. 2. **Establishment of trust fund.** An owner or operator of a waste tire facility may satisfy the requirements of part 9220.0560 by establishing a closure trust fund that conforms to the requirements of subparts 2 to 13 and by submitting an originally signed duplicate of the trust agreement to the commissioner with the permit application. The trustee shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

Subp. 3. **Wording of trust agreement.** The commissioner shall approve the form of a trust agreement instrument that contains terms adequate to ensure that financial assurance is provided. The commissioner shall provide a copy of the approved trust agreement instrument with the permit application forms. The owner or operator of the waste tire facility shall use the form provided by the commissioner when establishing a trust fund financial assurance mechanism.

Subp. 4. **Pay-in period.** The owner or operator shall make annual payments into the trust fund over the period for which the financial assurance is required, hereinafter called the pay-in period. The pay in period must equal five years or the expected operating life of the facility, whichever is shorter.

Subp. 5. **Payments.** The first payment must be made and a receipt submitted to the commissioner six months after the date the waste tire facility permit is issued. The first payment must at least be equal to the applicable current closure cost estimate, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The minimum amount of each subsequent payment must be determined by this formula:

$$\text{next payment} = \frac{\text{CE} - \text{CV}}{\text{Y}}$$

Where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

Subp. 6. **Establishment of trust fund as an alternate financial assurance mechanism.** If the owner or operator chooses to establish a closure trust fund after having used one or more alternate financial assurance mechanisms in part 9220.0550, the first payment into the trust fund must be at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this part as applicable.

Subp. 7. **Additional payments.** If, after the pay-in period is completed, the sum of the current closure cost estimate changes, the owner or operator shall within 60 days deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate. The owner or operator shall submit a receipt from the trustee for this payment to the commissioner. Alternately, the owner or operator may establish other financial assurance mechanisms as specified in parts 9220.0610 to 9220.0640 to cover the difference.

Subp. 8. **Request for release of excess funds.** During the operating life of the facility, if the value of the trust fund is greater than the sum of the current closure cost estimate, the owner or operator may submit to the commissioner a written request for release of the amount in excess of the current closure cost estimate covered by the trust fund.

Subp. 9. **Substitution of alternate financial assurance mechanisms.** If an owner or operator substitutes other financial assurance mechanisms as specified in parts 9220.0610 to 9220.0640 in place of all or part of the trust fund, the owner or operator may submit a written request to the commissioner for release of the amount in excess of the current closure cost estimate covered by the trust fund.

Subp. 10. **Release of funds.** Within 60 days after receiving a request from the owner or operator for release of funds specified in subpart 8 or 9, the commissioner shall instruct the trustee to release to the owner or operator any funds in excess of the latest closure cost estimate covered by the trust fund.

Subp. 11. **Notification.** The trust fund instrument must require the trustee to notify the owner or operator and the commissioner by certified mail within ten days following the expiration of the 30-day period after the anniversary of the establishment of the trust if no payment is received from the owner or operator during the period. Within 60 days after receipt by the commissioner of a notice of nonpayment of any payment required by this part, the owner or operator shall:

- A. make the required payment;

B. provide alternate financial assurance as specified in this part and obtain the commissioner's written approval of the assurance provided; or

C. stop accepting waste tires and begin closure of the facility.

Subp. 12. **Reimbursement.** After beginning closure of the waste tire facility, an owner, operator, or other person authorized to perform closure may request reimbursement from the trust fund for completed closure expenditures by submitting itemized bills to the commissioner. Within 60 days after receiving bills for completed closure activities, the commissioner shall determine whether the closure activities were in accordance with the closure plan or otherwise needed to ensure proper closure, and if so, the commissioner shall instruct the trustee to make reimbursement in the amount the commissioner specifies in writing. If the commissioner has reason to believe that the cost of closure will be significantly greater than the value of the trust fund, the commissioner may withhold reimbursement until it is determined, under part 9220.0670, that the owner or operator is no longer required to maintain financial assurance for closure.

Subp. 13. **Termination of trust fund.** The commissioner shall agree to termination of the trust if:

A. an owner or operator substitutes alternate financial assurance as specified in parts 9220.0610 to 9220.0670; or

B. the commissioner releases the owner or operator from the requirements of this part under part 9220.0670.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0620 SURETY BOND GUARANTEEING PAYMENT INTO A STANDBY TRUST FUND.

Subpart 1. **Scope.** Subparts 2 to 10 apply to surety bonds that guarantee payment into a standby trust fund. For surety bonds held by a county under part 9220.0600, provisions in this part that refer to the commissioner apply to both the commissioner and the county.

Subp. 2. **Surety bond requirements.** An owner or operator may satisfy the requirements of part 9220.0560 by obtaining a surety bond that conforms to the requirements of subparts 2 to 10 and by submitting the bond to the commissioner. The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of the Treasury, as published annually in the Federal Register on July 1.

Subp. 3. **Wording of surety bond.** The commissioner shall approve the form of a surety bond that contains terms adequate to ensure that financial assurance is provided. The commissioner shall provide a copy of the approved surety bond instrument with the permit application forms. The owner or operator of the waste tire facility must use the form provided by the commissioner when establishing a surety bond financial assurance mechanism.

Subp. 4. **Establishment of standby trust fund.** The owner or operator who uses a surety bond to satisfy the requirements of part 9220.0560 shall also establish a standby trust fund. The bond shall require the surety to deposit all payments made under the bond directly into the standby trust fund in accordance with instructions from the commissioner. An originally signed duplicate of the trust agreement must be submitted to the commissioner with the surety bond. The standby trust fund must meet the requirements of part 9220.0580, except that compliance with the requirements in items A to D is not required until the standby trust fund is funded under this part:

A. payments into the trust fund as specified in part 9220.0610;

B. updating of the trust agreement to show current closure cost estimates;

C. annual valuations as required by the trust agreement; and

D. notices of nonpayment as required by the trust agreement.

Subp. 5. **Performance guarantee.** The bond must guarantee that the owner or operator will:

A. pay into the standby trust fund an amount equal to the penal sum of the bond before the beginning of closure of the facility;

B. pay into the standby trust fund an amount equal to the penal sum within 15 days after an order to close the facility is issued by the commissioner, the agency, or court of competent jurisdiction; or

C. provide alternate financial assurance as specified in parts 9220.0610 to 9220.0640 and obtain the commissioner's written approval of the assurance provided, within 90 days after receipt by the commissioner of a notice of cancellation of the bond from the surety.

Subp. 6. **Failure to perform.** Under the terms of the bond, the surety must become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

Subp. 7. **Penal sum.** The penal sum of the bond must be at least equal to the sum of the applicable current closure cost estimate.

Subp. 8. **Changes to penal sum.** Within 60 days of an increase in the sum of the current closure cost estimate to an amount greater than the penal sum, the owner or operator shall either cause the penal sum to be increased to an amount at least equal to the sum of the current closure cost estimate and submit evidence of the increase to the commissioner, or obtain other financial assurance as specified in parts 9220.0610 to 9220.0640 to cover the increase. Whenever the sum of the current closure cost estimate decreases, the penal sum may be reduced to the sum of the current closure cost estimate following written approval by the commissioner.

Subp. 9. **Notification.** The bond must provide that the surety may cancel the bond only by sending notice of cancellation by certified mail to the owner or operator and the commissioner. The bond must also provide that cancellation is not effective until 120 days after the commissioner has received the notice of cancellation, as evidenced by the return receipt. For a surety bond held by a county under part 9220.0600, the bond must provide a 150-day cancellation period rather than a 120-day period.

Subp. 10. **Cancellation of surety bond.** The owner or operator may cancel the bond if the commissioner has given prior written consent. The commissioner shall provide written consent if:

A. an owner or operator substitutes alternate financial assurance as specified in parts 9220.0610 to 9220.0640; or

B. the commissioner releases the owner or operator from the requirements of this part in accordance with part 9220.0670.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0630 LETTER OF CREDIT.

Subpart 1. **Scope.** Subparts 2 to 11 apply to letters of credit. For letters of credit held by a county under part 9220.0600, provisions in this part that refer to the commissioner apply to both the commissioner and the county.

Subp. 2. **Letter of credit requirements.** An owner or operator may satisfy the requirements of part 9220.0560 by obtaining an irrevocable letter of credit that conforms to the requirements of subparts 2 to 11, and by submitting the letter to the commissioner. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency. An owner or operator of a waste tire facility shall submit the letter of credit to the commissioner with the facility permit application.

Subp. 3. **Wording of letter of credit.** The commissioner shall approve the form of a letter of credit that contains terms adequate to ensure that financial assurance is provided. The commissioner shall provide a copy of the approved letter of credit instrument with the permit application. The owner or operator of the waste tire facility shall use the form provided by the commissioner when establishing a letter of credit financial assurance mechanism.

Subp. 4. **Establishment of standby trust fund.** An owner or operator who uses a letter of credit to satisfy the requirements of part 9220.0560 shall also establish a standby trust

fund. Under the terms of the letter of credit, the issuing institution shall deposit all amounts paid directly into the standby trust fund in accordance with instructions from the commissioner. An originally signed duplicate of the standby trust fund agreement must be submitted to the commissioner with the letter of credit. The standby trust fund agreement must meet the requirements in part 9220.0610, except that compliance with the following is not required until the standby trust fund is funded under this part:

- A. payments into the trust fund as specified in part 9220.0610;
- B. updating of Schedule A of the trust agreement to show current closure cost estimates;
- C. annual valuations as required by the trust agreement; and
- D. notices of nonpayment as required by the trust agreement.

Subp. 5. Notification. The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be extended automatically for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the commissioner by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days must begin on the date when the commissioner received the notice, as evidenced by the return receipt. For a letter of credit held by a county under part 9220.0600, the letter of credit must provide a 150-day expiration period rather than a 120-day period.

Subp. 6. Amount of credit. The letter of credit must be issued in an amount at least equal to the applicable current closure cost estimate.

Subp. 7. Changes to amount of credit. Within 60 days of an increase in the current closure cost estimate to an amount greater than the amount of the credit, the owner or operator shall either cause the amount of the credit to be increased to an amount at least equal to the sum of the current closure cost estimate and submit evidence of the increase to the commissioner, or obtain other financial assurance as specified in parts 9220.0610 to 9220.0640 to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the sum of the current closure cost estimate following written approval by the commissioner.

Subp. 8. Failure to perform. The letter of credit must provide that the commissioner may draw on the letter of credit, when the commissioner has determined that the owner or operator has failed to perform closure when required to do so in accordance with the closure plan or part 9220.0500.

Subp. 9. Failure to establish alternate financial assurance. The commissioner shall draw on the letter of credit if the owner or operator does not establish alternate financial assurance as specified in parts 9220.0610 to 9220.0640 and obtain written approval of the alternate assurance from the commissioner within 90 days after the commissioner receives notice that the issuing institution has decided not to extend the letter of credit beyond the current expiration date. The commissioner may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any extension, the commissioner shall draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in parts 9220.0610 to 9220.0640 and obtain written approval of the assurance from the commissioner.

Subp. 10. Termination of letter of credit. The commissioner shall return the letter of credit to the issuing institution for termination if:

- A. an owner or operator substitutes alternate financial assurance as specified in parts 9220.0610 to 9220.0640; or
- B. the commissioner releases the owner or operator from the requirements of this part in accordance with part 9220.0670.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0640 SURETY BOND GUARANTEEING PERFORMANCE OF CLOSURE FOR PERMITTED FACILITIES.

Subpart 1. Scope. Subparts 2 to 11 apply to surety bonds that guarantee performance of closure. Surety bonds that guarantee performance of closure can only be used for permitted

facilities with approved closure plans. For surety bonds held by a county under part 9220.0600, provisions in this part that refer to the commissioner apply to both the commissioner and the county.

Subp. 2. Surety bond requirements. An owner or operator may satisfy the requirements of part 9220.0560 by obtaining a surety bond that conforms to the requirements of subparts 2 to 11 and by submitting the bond to the commissioner. The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of the Treasury, as published annually in the Federal Register on July 1. The owner or operator of a waste tire facility shall submit the bond to the commissioner with the permit application.

Subp. 3. Wording of performance bond. The commissioner shall approve the form of a surety bond guaranteeing performance of closure that contains terms adequate to ensure that financial assurance is provided. The commissioner shall provide a copy of the approved performance bond instrument with the permit application forms. The owner or operator of the waste tire facility shall use the form provided by the commissioner when establishing a surety bond guaranteeing performance of closure financial assurance mechanism.

Subp. 4. Establishment of standby trust fund. The owner or operator who uses a surety bond to satisfy the requirements of part 9220.0560 shall also establish a standby trust fund. The bond must require the surety to deposit all payments made under the bond directly into the standby trust fund in accordance with instructions from the commissioner. An originally signed duplicate of the standby trust fund agreement must be submitted to the commissioner with the surety bond. The standby trust fund must meet the requirements of part 9220.0610, except that compliance with the following requirements is not required until the standby trust fund is funded under this part:

- A. payments into the trust fund as specified in part 9220.0610;
- B. updating of the trust agreement to show current closure cost estimates;
- C. annual valuations as required by the trust agreement; and
- D. notices of nonpayment as required by the trust agreement.

Subp. 5. Performance guarantee. The bond must guarantee that the owner or operator will:

A. perform closure in accordance with the closure plan, and other requirements of the permit for the facility whenever required to do so; or

B. provide alternate financial assurance as specified in parts 9220.0610 to 9220.0640 and obtain the commissioner's written approval of the assurance provided, within 90 days after receipt by the commissioner of a notice of cancellation of the bond from the surety.

Subp. 6. Failure to perform. Under the terms of the bond, the surety shall become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond as determined by the commissioner.

Subp. 7. Penal sum. The penal sum of the bond must be at least equal to the applicable current closure cost estimate.

Subp. 8. Changes to penal sum. Within 60 days of an increase in the sum of the current closure cost estimate to an amount greater than the penal sum, the owner or operator shall either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of the increase to the commissioner, or obtain other financial assurance specified in parts 9220.0610 to 9220.0640. Whenever the sum of the current closure cost estimate decreases, the penal sum may be reduced to the current closure cost estimate following written approval of the commissioner.

Subp. 9. Notification. The bond must provide that the surety may cancel the bond only by sending notice of cancellation by certified mail to the owner or operator and to the commissioner. The bond must also provide that cancellation shall not be effective until 120 days after the commissioner has received the notice of cancellation as evidenced by the return receipt. For a surety bond held by a county under part 9220.0600, the bond must provide a 150-day cancellation period rather than a 120-day period.

Subp. 10. **Cancellation of surety bond.** The owner or operator may cancel the bond if the commissioner has given prior written consent. The commissioner shall provide written consent if:

A. an owner or operator substitutes alternate financial assurance as specified in parts 9220.0610 to 9220.0640; or

B. the commissioner releases the owner or operator from the requirements of this part in accordance with part 9220.0680.

Subp. 11. **Limitation on liability.** The surety is not liable for deficiencies in the owner's or operator's performance of closure after the commissioner releases the owner or operator from the requirements of this part in accordance with part 9220.0670.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0650 USE OF MULTIPLE FINANCIAL ASSURANCE MECHANISMS.

An owner or operator may satisfy the requirements of part 9220.0560 by establishing more than one financial assurance mechanism per waste tire facility. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, and letters of credit. The mechanisms must be established as specified in parts 9220.0610, 9220.0620, and 9220.0630, except that it is the combination of mechanisms, rather than a single mechanism, that must provide financial assurance at least equal to the sum of the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, the owner or operator may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The commissioner may use any or all of the financial assurance mechanisms to provide for closure of the facility.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0660 USE OF FINANCIAL ASSURANCE MECHANISMS FOR MULTIPLE WASTE TIRE FACILITIES.

An owner or operator may use a financial assurance mechanism specified in parts 9220.0610 to 9220.0640 to meet the requirements of part 9220.0560 for more than one waste tire facility. Evidence of financial assurance submitted to the commissioner must include a list showing, for each facility, the name, address, and the amount of funds for closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. When directing disbursement of funds for closure at any of the facilities covered by the mechanism, the commissioner shall direct that only the amount of funds designated for that facility be disbursed unless otherwise agreed to by the owner or operator.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0670 RELEASE OF OWNER OR OPERATOR FROM FINANCIAL ASSURANCE REQUIREMENTS.

When an owner or operator has completed, to the satisfaction of the commissioner, all closure requirements in accordance with the closure plan or other closure requirements, the commissioner shall notify the owner or operator in writing that financial assurance for closure of the waste tire facility is no longer required.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0680 INCAPACITY OF OWNERS OR OPERATORS, GUARANTORS, OR FINANCIAL INSTITUTIONS.

Subpart 1. **Notification of bankruptcy.** An owner or operator shall notify the commissioner by certified mail of the commencement of a voluntary or involuntary proceeding un-

der United States Code, title II, Bankruptcy, naming the owner or operator as a debtor, within ten days after commencement of the proceeding.

Subp. 2. **Incapacity of financial institution.** An owner or operator who fulfills the requirements of part 9220.0560 by obtaining a trust fund, surety bond, or letter of credit will be considered to be without the required financial assurance in the event of bankruptcy of the trustee or issuing institution; or in the event that the authority of the trustee to act as trustee is revoked or suspended; or in the event that the institution's authority to issue the surety bond or letter of credit is revoked or suspended. The owner or operator shall establish other financial assurance within 60 days after such an event.

Statutory Authority: *MS s 115A.914*

History: *12 SR 2513; L 1999 c 73 s 5*

9220.0800 Subpart 1. [Repealed, L 2002 c 382 art 1 s 6]

Subp. 2. [Repealed, L 2002 c 382 art 1 s 6]

Subp. 3. [Repealed, L 2002 c 382 art 1 s 6]

Subp. 4. [Repealed, L 2002 c 382 art 1 s 6]

Subp. 4a. [Repealed, L 2002 c 382 art 1 s 6]

Subp. 5. [Repealed, L 2002 c 382 art 1 s 6]

Subp. 6. [Repealed, 15 SR 1597]

Subp. 7. [Repealed, L 2002 c 382 art 1 s 6]

Subp. 8. [Repealed, L 2002 c 382 art 1 s 6]

9220.0805 [Repealed, L 2002 c 382 art 1 s 6]

9220.0810 [Repealed, L 2002 c 382 art 1 s 6]

9220.0815 [Repealed, L 2002 c 382 art 1 s 6]

9220.0820 [Repealed, L 2002 c 382 art 1 s 6]

9220.0825 [Repealed, L 2002 c 382 art 1 s 6]

9220.0830 [Repealed, L 2002 c 382 art 1 s 6]

9220.0835 [Repealed, L 2002 c 382 art 1 s 6]

9220.0900 [Repealed, L 2002 c 382 art 1 s 6]

9220.0905 [Repealed, L 2002 c 382 art 1 s 6]

9220.0910 [Repealed, L 2002 c 382 art 1 s 6]

9220.0915 [Repealed, L 2002 c 382 art 1 s 6]

9220.0920 [Repealed, L 2002 c 382 art 1 s 6]

9220.0925 [Repealed, L 2002 c 382 art 1 s 6]

9220.0930 [Repealed, L 2002 c 382 art 1 s 6]

9220.0935 [Repealed, L 2002 c 382 art 1 s 6]