

**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*

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