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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 223

01/22/2019 Authored by Sundin
The bill was read for the first time and referred to the Environment and Natural Resources Policy
03/21/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to environment; requiring financial assurance for waste tire facilities;
1.3 proposing coding for new law in Minnesota Statutes, chapter 115A.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **[115A.903] WASTE TIRE FACILITIES; FINANCIAL QUALIFICATIONS.**

1.6 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.7 the meanings given.

1.8 (b) "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

1.9 (c) "Financial qualification" means the ability of an applicant or permit holder to pay
1.10 the costs to properly design, construct, operate, maintain, and close a waste tire facility.

1.11 (d) "Waste tire facility" means a permitted facility operated by a tire collector or tire
1.12 processor at which waste tires are stored or processed.

1.13 Subd. 2. Application; financial qualification. (a) An applicant for a permit for a waste
1.14 tire facility must submit in an application to the commissioner:

1.15 (1) information demonstrating the applicant's financial qualification to design, construct,
1.16 operate, maintain, and close a waste tire facility; and

1.17 (2) cost estimates for:

1.18 (i) site investigation;

1.19 (ii) land acquisition costs, including financing terms and costs;

1.20 (iii) project design;

2.1 (iv) construction;

2.2 (v) operations;

2.3 (vi) maintenance; and

2.4 (vii) facility closing.

2.5 (b) An applicant or permit holder must provide an audited, certified financial statement
2.6 to the commissioner as part of the financial qualification review. An applicant may
2.7 demonstrate financial qualification through a combination of cash deposits, insurance, and
2.8 binding loan commitments from a financial institution licensed to do business in the state
2.9 and rated AAA by Standard & Poor's, Moody's Investors Service, or Fitch Ratings. If assets
2.10 of a parent, subsidiary, or other affiliate of the applicant or permit holder, or a joint venturer
2.11 with a direct or indirect interest in the applicant or permit holder, are proposed to be used
2.12 to demonstrate financial qualification, then the party whose assets are to be used must be
2.13 designated as a joint permittee with the applicant on the permit for the facility.

2.14 Subd. 3. **Financial qualification review.** The commissioner may provide to the state
2.15 auditor a copy of any filing that an applicant for a permit or a permit holder submits to the
2.16 commissioner to meet the financial qualification requirement under this section. The state
2.17 auditor must review the filing and provide the commissioner with a written opinion as to
2.18 the adequacy of the filing to meet the purposes of this section, including any recommended
2.19 changes.

2.20 Subd. 4. **Changes affecting financial qualification.** (a) To continue to hold a permit
2.21 for a waste tire facility, a permit holder must maintain financial qualification and must
2.22 provide any information requested by the commissioner to establish that the permit holder
2.23 continues to maintain financial qualification. A permit holder must notify the commissioner
2.24 within 30 days of any significant change in:

2.25 (1) the identity of any person or structure of the business entity that holds the permit for
2.26 the facility;

2.27 (2) the identity of any person or structure of the business entity that owns or operates
2.28 the facility; or

2.29 (3) assets of the permit holder, owner, or operator of the facility.

2.30 (b) A change is significant under paragraph (a) if the change:

2.31 (1) has the potential to affect the financial qualification of the permit holder, owner, or
2.32 operator; or

3.1 (2) would result in a change in the identity of the permit holder, owner, or operator for
3.2 purposes of financial qualification.

3.3 The commissioner may, after reviewing the changes, require the permit holder to reestablish
3.4 financial qualification and may modify or revoke a permit or require issuance of a new
3.5 permit.

3.6 Subd. 5. **Application.** (a) The financial qualification requirements of this section apply
3.7 only in the first ten years of operation of a waste tire facility permitted in the state.

3.8 (b) This section does not apply to political subdivisions operating a waste tire facility.

3.9 **EFFECTIVE DATE.** This section is effective the day following final enactment and
3.10 applies to waste tire facilities issued a permit on or after that date.

3.11 Sec. 2. **FINANCIAL ASSURANCE REQUIREMENTS FOR WASTE TIRE**
3.12 **FACILITIES; RULE AMENDMENTS.**

3.13 The commissioner of the Pollution Control Agency must amend Minnesota Rules, chapter
3.14 9220, with respect to the financial assurance required of owners and operators of permitted
3.15 waste tire facilities as follows:

3.16 (1) the rules must require financial assurance of \$250 per ton of waste tires stored at the
3.17 waste tire facility; and

3.18 (2) the rules must include as an optional financial assurance mechanism a corporate
3.19 financial test substantially similar to that allowed in Code of Federal Regulations, title 40,
3.20 section 258.74, paragraph (e).

3.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.