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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 4523

05/17/2018 Authored by Sundin The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy and Finance

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.9131] WASTE TIRE FACILITIES; FINANCIAL
1.6 QUALIFICATIONS FOR PERMIT HOLDERS.

1.7 (a) As used in this section:

1.8 (1) "commissioner" means the commissioner of the Minnesota Pollution Control Agency;

1.9 (2) "financial qualification" means the ability of an applicant or permit holder to pay the
1.10 costs of proper design, construction, operation, closure, and maintenance of a waste tire
1.11 facility; and

1.12 (3) "waste tire facility" means a facility required to be permitted by the commissioner
1.13 to process, store, or transfer waste tires.

1.14 (b) The commissioner may provide to the state treasurer a copy of any filing that an
1.15 applicant for a permit or a permit holder submits to the commissioner to meet the financial
1.16 qualification requirement under this section. The state treasurer must review the filing and
1.17 provide the commissioner with a written opinion as to the adequacy of the filing to meet
1.18 the purposes of this section, including any recommended changes.

1.19 (c) The commissioner must require an applicant for a permit for a waste tire facility to
1.20 demonstrate the applicant's financial qualification for the design, construction, operation,
1.21 closure, and maintenance of a waste tire facility. The commissioner must require an applicant
1.22 for a permit for a waste tire facility to provide to the commissioner cost estimates for site

2.1 investigation; land acquisition, including financing terms and land ownership; design;  
2.2 construction; operation; maintenance; and closure of the facility.

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

2.13 (e) To continue to hold a permit for a waste tire facility, a permit holder must maintain  
2.14 financial qualification and must provide any information requested by the commissioner to  
2.15 establish that the permit holder continues to maintain financial qualification. A permit holder  
2.16 must notify the commissioner within 30 days of any significant change in:

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

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

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

2.22 (f) A change is significant under paragraph (e) if the change has the potential to affect  
2.23 the financial qualification of the permit holder, owner, or operator, or if the change would  
2.24 result in a change in the identity of the permit holder, owner, or operator for purposes of  
2.25 financial qualification. Depending on the commissioner's review of the changes, the  
2.26 commissioner may require the permit holder to reestablish financial qualification and may  
2.27 modify or revoke a permit or require issuance of a new permit.

2.28 (g) The financial qualification requirements of this section apply only in the first ten  
2.29 years of operation of a waste tire facility permitted in the state.

2.30 (h) Units of local government are exempt from this section.

3.1       Sec. 2. **FINANCIAL ASSURANCE REQUIREMENTS FOR WASTE TIRE**  
3.2 **FACILITIES.**

3.3       The commissioner of the Pollution Control Agency must update financial assurance  
3.4 rules to allow no less than \$250/ton of waste tires, determined by passenger tire equivalents,  
3.5 in coverage for owners and operators of waste tire facilities permitted in the state. The  
3.6 commissioner must also update financial assurance requirements for storage of processed  
3.7 waste tire materials. In addition to financial mechanisms currently allowed, a corporate  
3.8 financial test must be an allowed mechanism and must be substantially similar to that allowed  
3.9 under Code of Federal Regulations, title 40, section 258.74 (2010).