

1 Pollution Control Agency

2

3 Adopted Permanent Rules Governing the Management of Waste Tires  
4 and the Permitting of Waste Tire Facilities

5

6 Rules as Adopted

7 7001.0020 SCOPE.

8 Except as otherwise specifically provided, parts 7001.0010  
9 to 7001.0210 apply to the following:

10 A. to K. [Unchanged.]

11 L. An agency permit required for the collection,  
12 deposit, storage, or processing of waste tires and tire-derived  
13 products.

14 7001.0040 APPLICATION DEADLINES.

15 Subpart 1. Application for new permit. Except as  
16 otherwise required by parts 7001.0530, 7001.1050, and 7001.4060,  
17 a permit application for a new facility or activity may be  
18 submitted at any time. However, it is recommended that the  
19 permit application be submitted at least 180 days before the  
20 planned date of the commencement of facility construction or of  
21 the activity.

22 Subp. 2. and 3. [Unchanged.]

23 7001.0050 WRITTEN APPLICATION.

24 A person who requests the issuance, modification,  
25 revocation and reissuance, or reissuance of a permit shall  
26 complete, sign, and submit to the director a written  
27 application. The person shall submit the written application in  
28 a form prescribed by the director. The application shall  
29 contain the items listed in items A to I unless the director has  
30 issued a written exemption from one or more of the data  
31 requirements. After receiving a written request for an  
32 exemption from a data requirement, the director shall issue the  
33 exemption if the director finds that the data is unnecessary to  
34 determine whether the permit should be issued or denied. The

1 application must contain:

2 A. to H. [Unchanged.]

3 I. other information relevant to the application as  
4 required by parts 7001.0550 to 7001.0640, 7001.1050, 7001.1215,  
5 7001.1290, 7001.4000 to 7001.4150, or 7040.0500 and 7040.0600.

6 7001.0190 PROCEDURE FOR MODIFICATION; REVOCATION AND REISSUANCE;  
7 AND REVOCATION WITHOUT REISSUANCE OF PERMITS.

8 Subpart 1. [Unchanged.]

9 Subp. 2. **Modification solely as to ownership or control.**

10 Upon obtaining the consent of the permittee, the agency shall  
11 consider a request to modify a permit as to the ownership or  
12 control of a permitted facility or activity without following  
13 the procedures in parts 7001.0100 to 7001.0130 if the agency  
14 finds that no other change in the permit is necessary. If the  
15 permit is a permit described in part 7001.0020, item A, B, or L,  
16 the agency shall also find that the agency has received a  
17 binding written agreement between the permittee and the proposed  
18 transferee containing a specific date for transfer of permit  
19 responsibilities and allocation of liabilities between the  
20 permittee and the proposed transferee. Within 60 days of  
21 receipt of a complete written application for modification as to  
22 ownership and control, the director shall place the matter on  
23 the agenda for consideration by the agency. The agency shall  
24 not unreasonably withhold or unreasonably delay approval of the  
25 proposed permit modification.

26 Subp. 3. **Minor modification.** Upon obtaining the consent  
27 of the permittee, the director may modify a permit to make the  
28 following corrections or allowances without following the  
29 procedures in parts 7001.0100 to 7001.0130:

30 A. and B. [Unchanged.]

31 C. to change a provision in the permit that will not  
32 result in allowing an actual or potential increase in the  
33 emission or discharge of a pollutant into the environment, or  
34 that will not result in a reduction of the agency's ability to  
35 monitor the permittee's compliance with applicable statutes and

1 rules;

2 D. if applicable, to make a change as provided in  
3 parts 7001.0730, subpart 3 and 7001.1350; and

4 E. if applicable, to make a change as provided in  
5 part 7001.4130, subpart 2.

6 Subp. 4. [Unchanged.]

7 7001.4000 SCOPE.

8 Except as otherwise provided, parts 7001.0010 to 7001.0210  
9 and 7001.4000 to 7001.4150 govern the application procedures for  
10 the issuance of and the conditions relating to waste tire  
11 facility permits. Parts 7000.0100 to 7000.1100, 7001.0010 to  
12 7001.0210, and 7001.4000 to 7001.4150 shall be construed to  
13 complement each other.

14 7001.4010 DEFINITIONS.

15 The definitions in part 7001.0010 of the agency's  
16 permitting rules, part 7035.8205 of the agency's waste tire  
17 rules, and Minnesota Statutes, section 115A.90, apply to the  
18 terms used in parts 7001.4000 to 7001.4150.

19 7001.4020 PERMITS.

20 Subpart 1. **Permit required.** Except as provided in subpart  
21 2, no person may do any of the following without obtaining a  
22 waste tire facility permit from the agency:

23 A. store, process, or dispose of waste tires or  
24 tire-derived products; or

25 B. establish, construct, modify, own, or operate a  
26 waste tire facility.

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

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

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

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

5 D. a permitted landfill operator with less than  
6 10,000 waste tires stored above ground at the permitted site;

7 E. a person using waste tires for agricultural  
8 purposes if the waste tires are kept on the site of use.  
9 Agricultural purposes do not include the burning of waste tires;  
10 or

11 F. a person conducting abatement activities under an  
12 abatement order or stipulation agreement entered into under part  
13 7035.8020. This exemption does not exempt the person from the  
14 duty to obtain a waste tire facility permit for activities other  
15 than the abatement action.

16 Subp. 3. Old waste tires. An owner or operator of a waste  
17 tire facility is not eligible to obtain a waste tire facility  
18 permit for old waste tires located at the facility.

19 7001.4030 PERMIT BY RULE.

20 Subpart 1. Facilities eligible. The owner and operator of  
21 the following waste tire facilities shall be considered to have  
22 obtained a waste tire facility permit without submitting the  
23 application described in part 7001.4070 if the director has  
24 received the notification described in subpart 2:

25 A. a waste tire facility used for the storage of no  
26 more than 500 waste tires at any one time if the owner or  
27 operator, at least once per year, removes all the waste tires,  
28 and the facility is in compliance with the locational  
29 requirements of part 7035.8240, subpart 2;

30 B. a waste tire facility used for the processing of  
31 no more than 500 waste tires during any 30 days if the facility  
32 is in compliance with the locational requirements of part  
33 7035.8240, subpart 2; or

34 C. a waste tire facility used as a temporary location  
35 for mobile shredding or baling equipment if the equipment is

1 located at the facility for 30 days or less, and all  
2 tire-derived products and residuals from processing are shipped  
3 from the facility within 30 days of completion of the shredding  
4 or baling operation.

5 Subp. 2. **Written notification.** To obtain permit by rule  
6 status, the owner and operator of a qualifying waste tire  
7 facility must submit the following information to the director.  
8 For an existing facility, the notification must be submitted  
9 within 90 days of the effective date of parts 7001.4000 to  
10 7001.4150. For a new facility, the notification must be  
11 submitted 15 days before the operation begins. The notification  
12 must contain:

13 A. the name, address, and telephone number of the  
14 owner and operator of the facility; and the name, address, and  
15 telephone number of the facility;

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

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

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

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

25 Subp. 3. **Termination of eligibility for permit by rule.**  
26 The agency shall terminate the eligibility of an owner or  
27 operator of a facility for permit by rule status after notice  
28 and opportunity for a contested case hearing or a public  
29 informational meeting if the agency finds that the facility does  
30 not qualify for permit by rule status or that the facility  
31 should be permitted to protect human health or the environment.  
32 When eligibility to be permitted under this part has been  
33 terminated, the owner and operator of the facility must apply  
34 for a waste tire facility permit under parts 7001.4000 to  
35 7001.4150 within 90 days or close the facility in compliance  
36 with part 7035.8250 and the applicable requirements of part

1 7035.8260.

2 7001.4035 NOTIFICATION BY EXISTING FACILITIES.

3 Subpart 1. Notification. The owner or operator of an  
4 existing waste tire facility must submit a signed, written  
5 notification to the director not more than 90 days after the  
6 effective date of parts 7001.4000 to 7001.4150. The written  
7 notification must include:

8 A. the name, address, and telephone number of the  
9 owner and operator of the facility; and the name, address, and  
10 telephone number of the facility;

11 B. a description of the facility and the type of  
12 operation, the maximum storage or processing capacity, and where  
13 the waste tires and tire-derived products are stored;

14 C. the approximate quantity and type of waste tires,  
15 designating passenger, truck, heavy equipment, or off-the-road  
16 tires, and tire-derived products stored on the site;

17 D. the township, range, and section numbers of the  
18 facility, and the zoning classification of the land; and

19 E. a statement indicating the intent of the owner or  
20 operator to continue to accept waste tires at the facility and  
21 to apply for a waste tire facility permit or to close the  
22 facility in compliance with parts 7035.8250 and 7035.8260.

23 Subp. 2. Certification of written notification. The owner  
24 or operator of a waste tire facility must sign the written  
25 notification and shall make the following certification: "I  
26 certify under penalty of law that this written notification was  
27 prepared under my direction or supervision in accordance with a  
28 system designed to assure that qualified personnel properly  
29 gather and evaluate the information submitted. Based on my  
30 inquiry of the person or persons who manage the system, or those  
31 persons directly responsible for gathering the information, the  
32 information submitted is, to the best of my knowledge and  
33 belief, true, accurate, and complete."

34 Subp. 3. Closure. The owner or operator of an existing  
35 waste tire facility who has specified in the written

1 notification an intent to close the facility, or who does not  
2 qualify for provisional status under part 7001.4040, must close  
3 the facility in accordance with parts 7035.8250 and 7035.8260.

4       Subp. 4. **Submittal of closure plan.** The owner or operator  
5 of an existing waste tire facility required to close under  
6 subpart 3 must submit to the director a closure plan in  
7 accordance with part 7035.8250 no later than 60 days after the  
8 date of receipt of a written request from the director for  
9 submission of the closure plan.

10       Subp. 5. **Compliance with standards.** The owner or operator  
11 of an existing waste tire facility must comply with the  
12 requirements specified in items A to C during the period from 90  
13 days after the effective date of parts 7001.4000 to 7001.4150  
14 until a permit is issued by the agency or closure is completed  
15 in compliance with parts 7035.8250 and 7035.8260, whichever  
16 occurs first.

17           A. Processes at the facility must be limited to those  
18 specified in the written notification.

19           B. Any waste tires accepted at the facility after the  
20 effective date of parts 7001.4000 to 7001.4150 must be stored in  
21 a new storage area according to the locational requirements of  
22 part 7035.8240, subpart 2, and the storage requirements of part  
23 7035.8240, subpart 3, items D, F, and G.

24           C. Compliance with the financial assurance  
25 requirements of parts 7035.8400 to 7035.8590 must be maintained.

26 7001.4040 PROVISIONAL STATUS.

27       Subpart 1. **Scope.** The owner or operator of a waste tire  
28 facility that qualifies for provisional status shall be  
29 considered to have fulfilled the requirement to obtain a permit  
30 so long as provisional status is maintained. When requested by  
31 the director, the owner and operator of a facility with  
32 provisional status shall submit a permit application within the  
33 time period specified in part 7001.4060.

34       Subp. 2. **Qualifying for provisional status.** To qualify  
35 for provisional status, an owner or operator of an existing

1 waste tire facility shall submit the notification required under  
2 part 7001.4035. However, the notification must contain the  
3 information required by this subpart. During the period after  
4 the submission of the written notification to the director and  
5 until a permit is issued by the agency or closure is completed  
6 in compliance with parts 7035.8250 and 7035.8260, the owner or  
7 operator of an existing facility shall be considered to be in  
8 compliance with the requirement to obtain a permit and shall be  
9 considered to have provisional status. The written notification  
10 shall include:

11           A. the information required under part 7001.4035,  
12 subpart 1;

13           B. documentation that the facility is in compliance  
14 with the locational requirements of part 7035.8240, subpart 2.  
15 For existing facilities located in a 100-year floodplain, a plan  
16 meeting the requirements of part 7001.4070, subpart 6, must be  
17 submitted with the notification; and

18           C. documentation verifying that the owner or operator  
19 of the facility has informed the local fire protection agency of  
20 the facility's location, and describing the arrangements that  
21 have been made to immediately acquire fire protection services  
22 for the facility, if needed.

23           Subp. 3. Termination of provisional status by permitting  
24 or closure. Provisional status shall terminate when a permit is  
25 issued or when the director verifies that closure is complete.

26           Subp. 4. Termination of provisional status for cause. The  
27 following constitute justification for the director to commence  
28 proceedings to terminate provisional status:

29           A. the director discovers that the owner or operator  
30 of the facility has failed to fully disclose all the information  
31 required under subpart 2 or has submitted false or misleading  
32 information to the agency or the director;

33           B. the facility is not in compliance with the  
34 locational standards of part 7035.8240, subpart 2;

35           C. the facility is not in compliance with any of the  
36 standards established in part 7001.4035, subpart 5;



1 D. the director has requested that the owner and  
2 operator of the facility submit a permit application and the  
3 owner and operator of the facility have failed to submit an  
4 application within the time period allowed; or

5 E. the director discovers that the facility threatens  
6 human health or the environment due to the activities conducted  
7 at the facility.

8 7001.4050 DESIGNATION OF PERMITTEE.

9 The agency shall designate all facility owners and  
10 operators of the waste tire facility as co-permittees when  
11 issuing a waste tire facility permit.

12 7001.4060 WASTE TIRE FACILITY PERMIT APPLICATION PROCEDURES.

13 Subpart 1. Form. The application for a waste tire  
14 facility permit consists of a general application, which  
15 includes the appropriate supporting documents, maps, and  
16 additional application information specific to the facility that  
17 is the subject of the application. The content requirements of  
18 the general permit application are set forth in part 7001.4070.  
19 The additional application information requirements specific to  
20 the facility type are set forth in parts 7001.4080, 7001.4090,  
21 and 7001.4100, and must be submitted with the general permit  
22 application.

23 Subp. 2. Copies required. An applicant for a waste tire  
24 facility permit shall submit four copies of the complete permit  
25 application to the director.

26 Subp. 3. Time of submittal. A person shall submit a  
27 permit application for a new or existing waste tire facility or  
28 for reissuance of an existing permit for a facility in  
29 accordance with items A to C.

30 A. For a new facility, a person shall submit a permit  
31 application at least 180 days before the planned date of the  
32 beginning of facility construction or the planned activity,  
33 whichever is earlier.

34 B. For an existing facility, the owner or operator  
35 may submit a permit application at any time after the effective

1 date of parts 7001.4000 to 7001.4150, except that upon the  
2 written request of the director for submission of a permit  
3 application, the owner or operator shall submit a permit  
4 application no later than 90 days after the date of receipt of  
5 the director's request.

6 C. For the reissuance of an existing permit, part  
7 7001.0040, subpart 3, governs the submittal of an application  
8 except that if the applicant receives the written approval of  
9 the director, the applicant may submit an application to the  
10 agency for reissuance of an existing permit less than 180 days  
11 before the expiration of the existing permit.

12 Subp. 4. Certification of permit applications and permit  
13 reports. A person who signs an application for a waste tire  
14 facility permit, or any portion of it, or any report required by  
15 a permit to be submitted to the director or to the agency, shall  
16 make the certification required by part 7001.0070. If required  
17 by Minnesota Statutes, section 326.03, an engineer registered in  
18 the state shall certify all technical documents required to be  
19 submitted as part of a permit application or by permit  
20 conditions.

21 7001.4070 GENERAL INFORMATION REQUIREMENTS FOR A PERMIT  
22 APPLICATION.

23 Subpart 1. Scope. The information required by this part  
24 and the applicable provisions of part 7001.4080, 7001.4090, or  
25 7001.4100, must be submitted for both new and existing waste  
26 tire facilities. The information in the permit application must  
27 address both existing and proposed operations, structures, and  
28 conditions. If a provision does not apply to the particular  
29 facility, the applicant must note this on the application.

30 Subp. 2. General facility information. The application  
31 shall contain the information in part 7001.0050, except item G,  
32 and shall indicate whether the facility to be permitted is new  
33 or existing, and whether the application is an initial or  
34 amended application.

35 Subp. 3. Description of facility operation. The

1 application shall describe the location and operation of the  
2 facility. The application shall, at a minimum, include a  
3 description of the following:

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

7 B. the maximum quantity and type of waste tires to be  
8 stored ~~on-the-site~~ at the facility at any time, specifying the  
9 quantity and type of waste tires stored ~~on-the-site~~ at the  
10 facility currently and the storage capacity of the facility;

11 C. the facility's ability to meet the storage  
12 requirements of part 7035.8240, subpart 3, items D, F, and G;

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

17 E. the access to the site of the facility by roads,  
18 including weight or other use restrictions;

19 F. surface water drainage, the slope of the land, and  
20 soil composition;

21 G. the location of the facility and whether that  
22 location complies with the restrictions established in part  
23 7035.8240, subpart 2;

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

27 I. the security procedures and the location of  
28 fences, gates, and other access control measures;

29 J. the relationship of the facility to the applicable  
30 county solid waste management plan, and the area to be served by  
31 the facility; and

32 K. the expected operating life of the facility and  
33 how this number was calculated.

34 Subp. 4. **Topographic map.** The topographic map submitted  
35 as part of the general facility information required by subpart  
36 2 shall show the facility and the area surrounding the facility

1 for a distance of at least 1,320 feet using a scale of one inch  
2 equals 200 feet, and shall show, at a minimum, the following:

- 3 A. the date the map was prepared;
- 4 B. the map scale and directions;
- 5 C. wetlands, floodplains, shorelands, and surface  
6 waters, including permanent and intermittent streams and  
7 wetlands;
- 8 D. legal boundaries and land ownership, including  
9 county, township, and municipal boundaries; and township, range,  
10 and section numbers; and easements and rights-of-way;
- 11 E. the locations of wells, both operating and  
12 abandoned;
- 13 F. occupied dwellings; and
- 14 G. contours that show the pattern of surface water  
15 flow in and adjacent to the facility.

16 Subp. 5. **Development map.** A development map shall be  
17 submitted with the application. This map shall show the waste  
18 tire facility in detail. At a minimum, the development map  
19 shall show the following:

- 20 A. the facility design and the location of all waste  
21 tire storage areas and fire lanes;
- 22 B. all structures and buildings at the facility,  
23 including those used in collection, storage, or processing  
24 operations;
- 25 C. loading and unloading areas;
- 26 D. access and internal roads;
- 27 E. run-off control measures, ditches, and dikes;
- 28 F. the location of the area used for collection,  
29 storage, or processing of waste tires, tire-derived products,  
30 and residuals from processing; and the total land area in square  
31 feet used for storage of waste tires, tire-derived products, and  
32 residuals from processing; and
- 33 G. the location of water supplies.

34 Subp. 6. **Floodplains.** If the facility is located within a  
35 100-year floodplain, the application must describe the  
36 procedures that the applicant will follow to remove waste tires

1 and tire-derived products to safety before the facility is  
2 flooded. The following information must, at a minimum, be  
3 included:

4           A. the timing of the removal relative to flood  
5 levels, showing that removal can be completed before floodwaters  
6 reach the facility;

7           B. the location of the facility or facilities to  
8 which the waste tires and tire-derived products will be moved  
9 and information indicating that these facilities will be able to  
10 receive waste tires and tire-derived products in accordance with  
11 parts 7001.4000 to 7001.4150, and parts 7035.8200 to 7035.8710;  
12 and

13           C. the planned procedures, equipment, and personnel  
14 to be used and how these resources will be made available when  
15 needed.

16           Subp. 7. Closure. The application shall include an  
17 estimate of the cost of closing the facility. This estimate  
18 shall be prepared following the procedures in part 7035.8430.  
19 The application shall also include a copy of the financial  
20 assurance mechanism required by part 7035.8420, and the closure  
21 plan required by part 7035.8250.

22 7001.4080 ADDITIONAL APPLICATION INFORMATION REQUIRED FOR WASTE  
23 TIRE TRANSFER FACILITIES.

24           The application for a waste tire transfer facility must  
25 include the following information in addition to the information  
26 required by part 7001.4070:

27           A. the types of vehicles intended to use the facility;

28           B. information on how the accumulation of waste tires  
29 at the transfer facility will be controlled so that no more than  
30 10,000 passenger tires or the equivalent weight of other waste  
31 tires shall be present at the transfer facility at any time;

32           C. information on the type of storage that will be  
33 present at the facility, designating drop boxes, containers,  
34 trailers, or stockpiles; and

35           D. information on size, capacity, and volume of drop

1 boxes, containers, and trailers to be maintained at the facility.

2 7001.4090 ADDITIONAL APPLICATION INFORMATION REQUIRED FOR WASTE  
3 TIRE PROCESSING FACILITIES.

4 The application for a waste tire processing facility must  
5 include the following information in addition to the information  
6 required by part 7001.4070:

7 A. the maximum quantity and type of tire-derived  
8 products and residuals from processing to be stored on the site  
9 at any time, specifying the quantity and type of tire-derived  
10 products and residuals from processing stored on the site  
11 currently and how they are being stored;

12 B. a description of the processes and procedures used  
13 at the facility for processing waste tires;

14 C. the processing capacity of the facility, and the  
15 number of tons of waste tires currently being processed;

16 D. a description of how the facility will comply with  
17 the 75 percent annual processing requirement of part 7035.8270,  
18 subpart 3, item B;

19 E. a description of how residuals from processing  
20 will be disposed;

21 F. the existing and proposed markets for the  
22 facility's tire-derived products; and

23 G. a copy of the emergency preparedness manual  
24 required by part 7035.8280, subpart 3.

25 7001.4100 ADDITIONAL APPLICATION INFORMATION REQUIRED FOR WASTE  
26 TIRE STORAGE FACILITIES.

27 Subpart 1. **General information.** The application for a  
28 waste tire storage facility must include the following  
29 information in addition to the information required by part  
30 7001.4070:

31 A. the procedures that will be used at the facility  
32 to minimize or prevent mosquito and rodent breeding in the waste  
33 tire stockpiles;

34 B. a copy of the emergency preparedness manual  
35 required by part 7035.8290, subpart 2;

1 C. a copy of the contingency plan required by part  
2 7035.8290, subpart 5; and

3 D. information on how the accumulation of waste tires  
4 at the waste tire storage facility will be controlled so that no  
5 more than 500,000 passenger tires or the equivalent weight of  
6 other waste tires are ever stored at the facility.

7 Subp. 2. Tire pile limitation exemption. The owner or  
8 operator of a waste tire storage facility who seeks to obtain an  
9 exemption from the waste tire pile size or fire lane  
10 requirements established in part 7035.8240, subpart 3, items F  
11 and G, must demonstrate that compliance with the standards is  
12 not technically feasible and that alternative methods can be  
13 successfully used to reduce the danger of fires at the  
14 facility. The request for an exemption from either requirement  
15 shall accompany the permit application, and shall include the  
16 following information:

17 A. a statement of the reason compliance with the  
18 requirement cannot be achieved at the facility;

19 B. the proposed alternative methods for controlling  
20 the spread of fire at the facility; and

21 C. a statement from the fire marshal that the  
22 alternative methods have been approved for use at the facility.

23 If the director finds, based on the information submitted,  
24 that compliance with the standards is not technically feasible  
25 and that alternative methods can be successfully employed to  
26 reduce the danger of fires at the facility, the director shall  
27 issue a permit that specifies waste tire pile size and fire lane  
28 requirements that reduce to the maximum extent any danger from  
29 fire at the facility.

30 7001.4110 PUBLIC NOTICE OF PRELIMINARY DETERMINATION AND DRAFT  
31 PERMIT; PUBLIC COMMENTS.

32 In addition to the requirements of part 7001.0100, subpart  
33 5, relating to the distribution of the public notice, the  
34 director shall mail a copy of the public notice to the governing  
35 body of each county and city or township that has jurisdiction

1 over the waste tire facility.

2 7001.4120 TERMS AND CONDITIONS OF WASTE TIRE FACILITY PERMITS.

3 In addition to the terms and conditions in part 7001.0150,  
4 each draft and final waste tire facility permit shall require  
5 compliance with parts 7035.8200 to 7035.8710, unless an  
6 exemption is permitted under part 7001.4100, subpart 2.

7 7001.4130 MODIFICATION OF PERMITS; REVOCATION AND REISSUANCE OF  
8 PERMITS.

9 Subpart 1. **Scope.** In addition to the provisions of parts  
10 7001.0170, 7001.0180, and 7001.0190, this part governs the  
11 modification, revocation, and reissuance of waste tire facility  
12 permits.

13 Subp. 2. **Minor modifications.** In addition to the  
14 authority to modify a permit under part 7001.0190, subparts 2  
15 and 3, upon obtaining the consent of the permittee, the director  
16 shall have the authority, without following the procedures in  
17 parts 7001.0100 to 7001.0130:

18 A. to modify a permit to change an interim compliance  
19 date in a schedule of compliance provided the new date does not  
20 interfere with the attainment of the final compliance date; and

21 B. to amend the closure plan, emergency preparedness  
22 manual, or contingency plan for a waste tire facility.

23 7001.4140 INTERACTION OF PERMIT AND ABATEMENT RULES.

24 If a tire collector wishes to obtain an agency permit for a  
25 site that is the subject of an abatement action, the tire  
26 collector must notify the director of this intent within 90 days  
27 of the effective date of parts 7001.4000 to 7001.4150 or at the  
28 time the abatement plan is submitted, whichever is later, and  
29 agree to develop a plan for bringing the site into compliance  
30 with the technical rules for waste tire transfer, processing, or  
31 storage facilities. This shall not exempt the owner or operator  
32 of a facility that is the subject of an abatement action from  
33 the duty to obtain a permit by following the procedures  
34 established in parts 7001.4000 to 7001.4150 for activities other



1 than the abatement action.

2 7001.4150 TRANSPORTER APPLICATION REQUIREMENTS.

3 Subpart 1. **Scope.** A person required to obtain an agency  
4 waste tire transporter identification number under part  
5 7035.8710, subpart 3, must follow the procedures established in  
6 subpart 2.

7 Subp. 2. **Application.** To obtain an agency waste tire  
8 transporter identification number and approval to transport  
9 waste tires, a transporter shall submit a written application to  
10 the director. For a transporter currently transporting waste  
11 tires, the application must be submitted not more than 30 days  
12 after the effective date of parts 7001.4000 to 7001.4150. For a  
13 new transporter, the application must be submitted 15 days  
14 before the transporter begins transporting waste tires. The  
15 application must contain the following information:

16 A. the name, address, and telephone number of the  
17 person who will be transporting waste tires. If a company will  
18 be transporting waste tires, the name, address, and telephone  
19 number of the officers of the company must be submitted, along  
20 with an identification of the number of drivers that will be  
21 transporting tires for the company;

22 B. the geographical area that will be served;

23 C. the type of vehicle(s) or trailer(s) or both  
24 vehicle(s) and trailer(s) that will be used, the license  
25 number(s), and registered vehicle owner(s);

26 D. where the waste tires will be collected, and where  
27 delivered or deposited; and

28 E. an estimate of the quantity and type of waste  
29 tires that will be collected quarterly.

30 WASTE TIRE FACILITY STANDARDS

31 7035.8200 SCOPE.

32 Parts 7035.8200 to 7035.8590 apply to owners and operators  
33 of waste tire facilities except those who are exempt from the  
34 requirement to obtain a waste tire facility permit under part  
35 7001.4020 or are permitted by rule under part 7001.4030. Parts

1 7035.8700 to 7035.8710 apply to persons who generate or  
2 transport waste tires.

3 7035.8205 DEFINITIONS.

4 Subpart 1. Scope. For the purposes of parts 7035.8200 to  
5 7035.8710 and parts 7001.4000 to 7001.4150, the terms in  
6 subparts 2 to 28 have the meanings given them.

7 Subp. 2. Agency. "Agency" means the Minnesota Pollution  
8 Control Agency.

9 Subp. 3. Closure. "Closure" means the removal of all  
10 stockpiles of waste tires and other materials from the waste  
11 tire facility in compliance with the procedures established by  
12 statute, rule, or permit.

13 Subp. 4. Director. "Director" means the executive  
14 director of the Minnesota Pollution Control Agency.

15 Subp. 5. Existing waste tire facility. "Existing waste  
16 tire facility" means a waste tire facility which has received  
17 waste tires after November 21, 1985, and which is in existence  
18 on the effective date of parts 7035.8200 to 7035.8710.

19 Subp. 6. Floodplain. "Floodplain" means any land area  
20 that is subject to a one percent or greater chance of flooding  
21 in any given year from any source.

22 Subp. 7. New waste tires. "New waste tires" means waste  
23 tires accumulated at a waste tire facility after November 21,  
24 1985.

25 Subp. 8. Old waste tires. "Old waste tires" means waste  
26 tires accumulated at a waste tire facility before November 21,  
27 1985.

28 Subp. 9. Operator. "Operator" means the person  
29 responsible for the overall operation of the waste tire  
30 facility. An operator is a tire collector or tire processor as  
31 defined in Minnesota Statutes, section 115A.90, subdivisions 8  
32 and 10 respectively.

33 Subp. 10. Owner. "Owner" means a person who owns, in  
34 whole or in part, a waste tire facility, the waste tires located  
35 at a facility, or the land on which the facility is located.

1 Subp. 11. Person. "Person" has the meaning given in  
2 Minnesota Statutes, section 115A.90, subdivision 5.

3 Subp. 12. Processing. "Processing" has the meaning given  
4 in Minnesota Statutes, section 115A.90, subdivision 6.

5 Subp. 13. Ravine. "Ravine" means a deep, narrow cleft or  
6 gorge in the earth's surface. A ravine cannot be smoothed out  
7 by ordinary tillage.

8 Subp. 14. Residuals from processing. "Residuals from  
9 processing" means the unusable material resulting from any  
10 chemical or physical processing of waste tires.

11 Subp. 15. Shoreland. "Shoreland" means land located  
12 within 1,000 feet from the normal high water mark of a lake,  
13 pond, or flowage, or land within 300 feet of a river or stream,  
14 or a floodplain as established by ordinance.

15 Subp. 16. Sinkhole. "Sinkhole" means a closed depression  
16 formed by subsidence of the underlying bedrock.

17 Subp. 17. Tire. "Tire" has the meaning given in Minnesota  
18 Statutes, section 115A.90, subdivision 7.

19 Subp. 18. Tire collector. "Tire collector" has the  
20 meaning given in Minnesota Statutes, section 115A.90,  
21 subdivision 8.

22 Subp. 19. Tire-derived products. "Tire-derived products"  
23 means usable materials produced from the chemical or physical  
24 processing of a waste tire.

25 Subp. 20. Tire dump. "Tire dump" has the meaning given in  
26 Minnesota Statutes, section 115A.90, subdivision 9.

27 Subp. 21. Tire processor. "Tire processor" has the  
28 meaning given in Minnesota Statutes, section 115A.90,  
29 subdivision 10.

30 Subp. 22. Transporter. "Transporter" means a person who  
31 removes waste tires from a source of generation, a tire dump, or  
32 a waste tire facility, and who has received an agency waste tire  
33 transporter identification number.

34 Subp. 23. Waste tire. "Waste tire" has the meaning given  
35 in Minnesota Statutes, section 115A.90, subdivision 11.

36 Subp. 24. Waste tire facility or facility. "Waste tire

1 facility" or "facility" means any area where waste tires,  
2 including tire-derived products, are collected, deposited,  
3 stored, or processed. The incidental storage of tire-derived  
4 products at the site of final utilization or tire-derived oil at  
5 a refinery does not make the site a waste tire facility.

6 Subp. 25. **Waste tire processing facility.** "Waste tire  
7 processing facility" means any area where waste tires or  
8 tire-derived products are processed. A waste tire processing  
9 facility must meet the qualifications in part 7035.8270.

10 Subp. 26. **Waste tire storage facility.** "Waste tire  
11 storage facility" means any area where waste tires, or  
12 tire-derived products, are collected, deposited, or stored. A  
13 waste tire storage facility is a facility which does not meet  
14 the qualifications for regulation as a waste tire transfer  
15 facility or a waste tire processing facility.

16 Subp. 27. **Waste tire transfer facility.** "Waste tire  
17 transfer facility" means any area where waste tires are  
18 concentrated for transport to waste tire processing facilities.  
19 A waste tire transfer facility must meet the qualifications in  
20 part 7035.8270.

21 Subp. 28. **Wetland.** "Wetland" means any area that is  
22 covered by standing water during any portion of a year. Wetland  
23 includes, but is not limited to, wetlands as defined in  
24 Classification of Wetlands and Deep Water Habitats of the United  
25 States, 1979. This publication was issued by the United States  
26 Department of the Interior, Fish and Wildlife Service,  
27 Washington, D.C. 20402. This publication is available at the  
28 Minnesota State Government Law Library, Ford Building, 117  
29 University Avenue, Saint Paul, Minnesota. This publication is  
30 incorporated into this definition by reference and is not  
31 subject to frequent change.

32 7035.8210 LAND DISPOSAL PROHIBITED.

33 Disposal of waste tires and tire-derived products in  
34 landfills is prohibited.

35 7035.8220 PERMIT REQUIRED.

1 An agency permit is required to establish, construct,  
2 modify, own, or operate a waste tire facility, unless that  
3 facility is exempt from the requirement to obtain a permit by  
4 statute or rule. The procedures that must be followed to obtain  
5 an agency permit, and the facilities that are exempt from the  
6 requirement to obtain an agency permit, are set out in parts  
7 7001.4000 to 7001.4150.

8 7035.8230 RULE CONFLICTS.

9 Nothing in parts 7035.8200 to 7035.8710 shall relieve any  
10 person from obligations or duties imposed by any other laws,  
11 statutes, rules, standards, or ordinances of the federal, state,  
12 or local governments or any agency thereof now in effect or  
13 which become effective in the future. In the event parts  
14 7035.8200 to 7035.8710 conflict with any such laws, statutes,  
15 rules, standards, or ordinances, the more stringent provisions  
16 shall apply.

17 7035.8240 GENERAL STANDARDS FOR PERMITTED FACILITIES.

18 Subpart 1. **Scope.** All permitted waste tire facilities  
19 must comply with the technical and operational standards in this  
20 part. In addition to the requirements in this part, each  
21 permitted facility must comply with requirements specific to the  
22 operation conducted at the facility and any special conditions  
23 established in a permit. Part 7035.8270 establishes  
24 qualifications for regulation as a waste tire transfer or  
25 processing facility. Facilities that do not meet the standards  
26 for regulation as a waste tire transfer or processing facility  
27 are subject to regulation as a waste tire storage facility and  
28 must comply with the standards of part 7035.8290.

29 Subp. 2. **Location of facility.** A waste tire facility  
30 shall not be constructed or operated in a wetland, sinkhole,  
31 shoreland, ravine, 100-year floodplain, or any area where it may  
32 be subjected to immersion in water. An existing facility may be  
33 located in a 100-year floodplain if the owner or operator  
34 submits to the director a plan meeting the requirements of part  
35 7001.4070, subpart 6, with the permit application.

1 Subp. 3. Operation. A waste tire facility shall be  
2 operated in compliance with the following standards:

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

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

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

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

17 E. Waste tires stored indoors shall be stored under  
18 conditions that meet or exceed those in The Standard for Storage  
19 of Rubber Tires, NFPA 231D-1980 edition, written by the NFPA  
20 Committee on Standards for Rubber Tires, adopted by the National  
21 Fire Protection Association and published by the NFPA Standards  
22 Council (Dec. 18, 1980), San Diego, California. This  
23 publication is available at the Minnesota State Government Law  
24 Library, Ford Building, 117 University Avenue, Saint Paul,  
25 Minnesota; the Office of Public Safety, Fire Marshal Division;  
26 or any local fire department. This publication is incorporated  
27 by reference and is not subject to frequent change.

28 F. No waste tire pile shall have an area greater than  
29 10,000 square feet or a vertical height greater than 20 feet,  
30 except as established in the permit as provided in part  
31 7001.4100, subpart 2.

32 G. A 50-foot fire lane shall be placed around the  
33 perimeter of each waste tire pile, except as established in the  
34 permit as provided in part 7001.4100, subpart 2. Access to the  
35 fire lane for emergency vehicles must be unobstructed at all  
36 times. The fire lane shall be maintained free of rubbish and

1 vegetation at all times.

2 H. All tire piles shall be maintained free of  
3 mosquitoes, through the use of mosquito control methods such as  
4 briquettes, spraying, or removal of water ponded in the waste  
5 tires.

6 I. All tire piles shall be maintained free of rodents.

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

9 Subp. 4. **Transfer of ownership or operation.** The  
10 permittee of a waste tire facility shall notify the director  
11 before transferring ownership or operation of a facility during  
12 its operating life. The permittee must also notify the new  
13 owner or operator in writing of the requirements of parts  
14 7035.8200 to 7035.8710 and existing permit conditions. The  
15 requirements of parts 7035.8200 to 7035.8710 are transferred to  
16 the new owner or operator immediately upon the transfer of  
17 ownership or operation of the facility. A permittee's failure  
18 to notify the new owner or operator of these requirements does  
19 not relieve the new owner or operator of the obligation to  
20 comply with parts 7035.8200 to 7035.8710. No ownership or  
21 operation transfer may occur without a permit modification as  
22 required in part 7001.0190, subpart 2. The facility must be in  
23 compliance with all agency rules before transfer of the permit  
24 shall be approved.

25 Subp. 5. **Annual report.** A permittee of a waste tire  
26 facility shall submit a report containing the following  
27 information to the director annually, on March 1 of each year:

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

29 B. the year covered by the report;

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

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

36 E. the total quantity and type of waste tires and

1 weight of tire-derived products located at the facility on the  
2 date of reporting;

3 F. for all waste tires and tire-derived products  
4 shipped from the facility, the name and agency waste tire  
5 transporter identification number of the transporter who  
6 accepted the waste tires or tire-derived products for transport,  
7 and the quantity of waste tires or volume of tire-derived  
8 products shipped with that transporter. If the waste tires were  
9 shipped with a person who is not a waste tire transporter, the  
10 number of tires shipped, the person's name and telephone number,  
11 and the place where the tires were deposited should be noted;

12 G. for all waste tires and tire-derived products  
13 received at the facility, the name and agency waste tire  
14 transporter identification number of the transporter who  
15 delivered the waste tires or tire-derived products to the  
16 facility, and the quantity of waste tires or volume of  
17 tire-derived products received from that transporter. If the  
18 waste tires were delivered by a person who is not a waste tire  
19 transporter, the number of tires delivered, and the person's  
20 name and telephone number should be noted;

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

24 I. the most recent closure cost estimate prepared  
25 using the criteria in part 7035.8430.

26 7035.8250 CLOSURE.

27 Subpart 1. Closure conditions. The owner or operator of a  
28 waste tire facility must cease to accept waste tires and must  
29 immediately close the facility in compliance with any special  
30 closure conditions established in the permit, this part, and  
31 part 7035.8260, if:

32 A. the owner or operator declares the facility closed;

33 B. the owner or operator fails to provide alternate  
34 financial assurance and obtain written approval of the financial  
35 assurance from the director within the specified time period as



1 required by parts 7035.8400 to 7035.8590;

2 C. the agency permit for a facility expires and  
3 renewal of the permit is not applied for, or is applied for and  
4 denied;

5 D. the agency permit for the facility is revoked  
6 without reissuance;

7 E. an agency order to cease operations is issued;

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

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

13 Subp. 2. Submittal of closure plan. The owner or operator  
14 of a waste tire facility shall submit to the director a closure  
15 plan with the permit application, upon request of the director,  
16 or as required by an order or stipulation agreement. The  
17 director shall approve the closure plan as part of the permit  
18 issuance procedure or as part of a submittal required by a  
19 stipulation agreement, or other enforcement action. Compliance  
20 with the approved closure plan shall be made a condition of any  
21 permit, order, or stipulation agreement. No closure plan shall  
22 be approved unless the closure plan is consistent with this  
23 part, and the applicable closure requirements of part 7035.8260.

24 Subp. 3. Contents of closure plan. A copy of the approved  
25 closure plan and all revisions to the plan must be kept at the  
26 facility until closure is completed and verified by the  
27 director. To be approved, a closure plan must identify steps  
28 needed to close the facility at any point during its intended  
29 operating life and to close the facility completely at the end  
30 of its operating life. The closure plan must include:

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

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

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

4 D. an estimate of the cost of closing the facility,  
5 including an itemized breakdown of the cost of transportation,  
6 tipping fees, and labor associated with closure of the facility;  
7 and

8 E. a schedule for the applicable closure procedures  
9 of part 7035.8260, including the time period for completing the  
10 closure procedures.

11 Subp. 4. **Amendment of plan.** The owner or operator may  
12 amend the closure plan at any time during the life of the  
13 facility. Any amendments to the closure plan must be submitted  
14 to and approved by the director before they become effective.  
15 The owner or operator must amend the closure plan and submit the  
16 amended plan to the director for approval whenever changes in  
17 the operating plan or facility design affect the closure  
18 procedures required, or whenever the expected year of closure  
19 changes.

20 7035.8260 CLOSURE PROCEDURES.

21 Subpart 1. **Time for completion of closure.** Within 90 days  
22 after closure of the facility must begin under part 7035.8250,  
23 the owner or operator of a waste tire facility shall complete  
24 the closure activities of this part. Additional procedures  
25 shall be completed as specified in the facility's approved  
26 closure plan. For waste tire processing or waste tire storage  
27 facilities, the director may approve a longer, specified period  
28 of time for completing the procedures set out in this part,  
29 provided the owner or operator demonstrates that all steps have  
30 been and will continue to be taken to minimize threats to human  
31 health, natural resources, and the environment, and the  
32 activities required by this part will take longer than 90 days  
33 to complete.

34 Subp. 2. **Closure procedures.** If the conditions of part  
35 7035.8250, subpart 1 exist, the owner or operator must:

- 1           A. close public access to the facility;
- 2           B. post a gate notice indicating to the public that  
3 the facility is closed and indicating the nearest facility where  
4 tires can be deposited;
- 5           C. notify the agency, local units of government,  
6 local land use authorities, and fire and health authorities of  
7 the closing of the facility;
- 8           D. remove all solid waste to a permitted solid waste  
9 facility;
- 10          E. remove all waste tires to a waste tire processing  
11 facility that has a permit or provisional status. If a waste  
12 tire processing facility is not available to accept the waste  
13 tires, the director shall approve shipment of the waste tires to  
14 a waste tire storage or transfer facility willing and able to  
15 accept the waste tires;
- 16          F. remove all tire-derived products to a market; and
- 17          G. notify the director when the closure activities  
18 are completed.

19          Subp. 3. Certification of closure. After receiving  
20 certification from the owner or operator of the facility that  
21 the closure procedures have been completed in accordance with  
22 subpart 2, the director shall inspect the facility site. If all  
23 procedures have been correctly completed, the director shall  
24 verify that the facility has been closed in compliance with  
25 parts 7035.8200 to 7035.8710, and that all duties established by  
26 parts 7035.8200 to 7035.8710, and by the facility permit, have  
27 been discharged.

28 7035.8270 QUALIFICATIONS FOR REGULATION AS A PERMITTED WASTE  
29 TIRE TRANSFER OR WASTE TIRE PROCESSING FACILITY.

30          Subpart 1. Scope. This part sets out the qualifications  
31 for regulation as a permitted waste tire transfer facility or  
32 waste tire processing facility. Facilities that do not meet the  
33 standards for regulation as a waste tire transfer or processing  
34 facility shall be subject to regulation as a waste tire storage  
35 facility.

1 Subp. 2. Waste tire transfer facility qualifications. To  
2 qualify for regulation as a permitted waste tire transfer  
3 facility, the following standards must be met:

4 A. Waste tires stored at the facility shall be  
5 limited to 10,000 passenger tires or the equivalent weight of  
6 other waste tires.

7 B. All waste tires received at the facility shall be  
8 transported to a permitted waste tire processing facility at  
9 least twice annually or as otherwise provided in the facility's  
10 waste tire transfer facility permit as necessary to protect  
11 human health, natural resources, or the environment.

12 Subp. 3. Waste tire processing facility qualifications.  
13 To qualify for regulation as a permitted waste tire processing  
14 facility, the following standards must be met:

15 A. Waste tires stored shall be limited to one waste  
16 tire pile meeting the limits in part 7035.8240, subpart 3, item  
17 F, of the general facility standards, which is approximately  
18 70,000 passenger tires.

19 B. At least 75 percent of the waste tires and  
20 tire-derived products must be processed and removed from the  
21 waste tire processing facility during a calendar year. This 75  
22 percent annual processing requirement applies to all waste tires  
23 and tire-derived products received or produced by the facility  
24 during a calendar year. Compliance with the 75 percent annual  
25 processing requirement is determined based on the amount of  
26 waste tires and tire-derived products that are at the facility  
27 at the beginning of the calendar year, that are received or  
28 produced at the facility during the calendar year, and that  
29 remain at the facility at the end of the calendar year. The  
30 volume of waste tires and tire-derived products processed shall  
31 be calculated based on weight. This requirement shall not apply  
32 to facilities that have a waste tire storage facility permit, or  
33 that have received from the director, through the petitioning  
34 process established in part 7035.8300, an exemption from the 75  
35 percent annual processing requirement.

1 7035.8280 WASTE TIRE PROCESSING FACILITY STANDARDS.

2 Subpart 1. **Scope.** This part sets out the standards that  
3 shall be applied to the operation of a permitted waste tire  
4 processing facility in addition to the general standards in part  
5 7035.8240. To qualify for regulation as a waste tire processing  
6 facility, the standards in part 7035.8270 must be met.

7 Subp. 2. **Emergency preparedness.** Equipment for  
8 communications and the control of fires shall be provided and  
9 maintained at the waste tire processing facility at all times.  
10 Arrangements to acquire police and fire protection services for  
11 the waste tire processing facility shall be made with local  
12 police and fire protection authorities.

13 Subp. 3. **Emergency preparedness manual.** The permittee of  
14 the waste tire processing facility shall maintain an emergency  
15 preparedness manual at the facility. This manual shall be  
16 submitted to the director with the permit application. Once  
17 approved, the manual shall become part of the permit. This  
18 manual shall be updated if a change in the operations of the  
19 waste tire processing facility occurs, or if the director  
20 requires an update. This emergency preparedness manual must, at  
21 a minimum, contain:

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

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

29 C. an assessment of the possible hazards to human  
30 health and the environment should an emergency occur;

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

36 E. the locations of known water supplies, fire

1 hydrants, dry-chemical extinguishers, or other materials that  
2 may be used for fire fighting purposes; and

3 F. additional relevant information.

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

8 Subp. 4. **Emergency procedures.** The permittee of the waste  
9 tire processing facility shall implement the emergency  
10 procedures of subpart 3, item D, in the event of a fire or other  
11 emergency.

12 Subp. 5. **Emergency notification and reports.** The  
13 permittee of the waste tire processing facility shall  
14 immediately notify the director in the event of a fire or other  
15 emergency with potential off-site impacts. Within one week of  
16 correcting an emergency situation at the waste tire processing  
17 facility, the permittee of the facility shall submit to the  
18 director a report on the emergency. This report shall set out  
19 the type of emergency, the date and time of the emergency, the  
20 origins of the emergency, the actions that were taken to respond  
21 to the emergency, the results of the actions that were taken,  
22 and an analysis of the success or failure of the actions.

23 Subp. 6. **Market information.** In addition to the  
24 information to be included in the annual report required under  
25 the general facility standards of part 7035.8240, subpart 5, the  
26 permittee of a waste tire processing facility shall include a  
27 list of markets for the product of the processing operation, and  
28 the form and quantity of the product shipped to the markets.  
29 The permittee of a waste tire processing facility shall also  
30 report on the quantity of residuals from processing produced at  
31 the facility, and how and where those residuals were disposed.

32 7035.8290 WASTE TIRE STORAGE FACILITY STANDARDS.

33 Subpart 1. **Scope.** This part sets out the standards that  
34 shall be applied to the operation of a permitted waste tire  
35 storage facility in addition to the general standards in part

1 7035.8240. A waste tire facility that cannot qualify for  
2 regulation as a waste tire transfer facility or as a waste tire  
3 processing facility shall comply with the standards in this part.

4 Subp. 2. **Emergency preparedness standards.** Waste tire  
5 storage facilities shall comply with the emergency preparedness  
6 standards for waste tire processing facilities in part  
7 7035.8280, subparts 2 to 5.

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

12 Subp. 4. **Additional information.** In addition to the  
13 information required to be submitted in the annual report  
14 required under the general facility standards of part 7035.8240,  
15 subpart 5, the permittee of the waste tire storage facility  
16 shall submit:

17 A. information on the procedures used at the facility  
18 to minimize or prevent mosquito breeding and rodent infestation,  
19 including the dates when mosquito or rodent control operations  
20 were conducted; and

21 B. reports that identify all incidents that required  
22 implementing the contingency plan of subpart 5. The report must  
23 contain a description of the actions that have been taken to  
24 minimize hazards to human health and the environment since the  
25 emergency occurred, and what actions will be taken to continue  
26 to correct the emergency if the emergency has not been corrected.

27 Subp. 5. **Contingency plan.** The permittee of a waste tire  
28 storage facility that has more than one waste tire pile, shall  
29 prepare and maintain a contingency plan at the facility. This  
30 contingency plan must identify the procedures to be followed in  
31 the event an emergency causes a release of substances or  
32 pollutants that threaten human health, natural resources, or the  
33 environment. The contingency plan must include:

34 A. an identification of the events, including  
35 vandalism, spills, fires, explosions, or any incident that could  
36 cause a release of substances or pollutants that threaten human

1 health, natural resources, or the environment;

2 B. a detailed description of the procedures that  
3 should be followed in the event of a release of substances or  
4 pollutants that threaten human health, natural resources, or the  
5 environment at the facility including the procedures that should  
6 be followed to prevent the contamination of soil and ground  
7 water from the release and run-off contaminated with substances  
8 discharged from the burning tires;

9 C. a description of how and where run-off  
10 contaminated with substances discharged from the burning tires  
11 will be confined and collected;

12 D. a description of how and where the contaminated  
13 run-off will be stored before it is treated, used, or disposed  
14 of; and

15 E. a description of the emergency equipment available  
16 on- or off-site to implement the contingency plan, the response  
17 time for any emergency equipment available off-site, and the  
18 function and capacity of the equipment.

19 Subp. 6. Contingency plan submittal. The contingency plan  
20 shall be submitted to the director with the permit application.  
21 Once approved, the plan shall become part of the permit. This  
22 plan shall be updated if a change in the operations at the waste  
23 tire storage facility occurs, or if the plan did not provide for  
24 an appropriate response to an emergency situation involving a  
25 release, or if required by the director to protect human health,  
26 natural resources, or the environment.

27 Subp. 7. Contingency plan implementation. The permittee  
28 of the waste tire storage facility shall implement the  
29 contingency plan of subpart 5 when needed to prevent, mitigate,  
30 or clean up a release of substances or pollutants that threaten  
31 human health, natural resources, or the environment.

32 Subp. 8. Notification of implementation of contingency  
33 plan. The permittee of the waste tire storage facility must  
34 immediately notify the director when the contingency plan is  
35 implemented.

36 Subp. 9. Removal of contaminated soil. If required by the



1 director to protect human health, natural resources, or the  
2 environment, the permittee shall remove soil contaminated by  
3 substances released by an event specified in subpart 5. The  
4 action shall be taken in accordance with any applicable rules  
5 governing the removal, transportation, and disposal of the  
6 material.

7 7035.8300 PETITION PROCEDURES.

8 Subpart 1. **Scope.** This part sets out the procedures for  
9 submitting a petition for an exemption from the 75 percent  
10 annual processing requirement established by part 7035.8270,  
11 subpart 3.

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

19 Subp. 3. **Information required.** The petition for an  
20 exemption from the 75 percent annual processing requirement  
21 shall contain information sufficient to allow the director to  
22 find:

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

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

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

33 Subp. 4. **Determination by the director.** If the director,  
34 upon evaluation of the information submitted as part of the  
35 petition, makes the findings listed under subpart 3, the

1 director shall grant the petition. The director shall determine  
2 whether the petition shall be granted within 60 days of  
3 receiving a petition containing information sufficient for the  
4 director to make the required findings. An exemption granted  
5 under this part shall be valid for one year. The director shall  
6 not grant the permittee of a waste tire processing facility an  
7 exemption from the 75 percent annual processing requirement for  
8 any two consecutive years.

9 WASTE TIRE FACILITY

10 FINANCIAL ASSURANCE REQUIREMENTS

11 7035.8400 SCOPE.

12 Parts 7035.8400 to 7035.8590 apply to owners and operators  
13 of waste tire facilities, except those who are exempt from the  
14 requirement to obtain a waste tire facility permit under part  
15 7001.4020, or are permitted by rule under part 7001.4030.

16 7035.8410 DEFINITIONS.

17 Subpart 1. **Scope.** When used in parts 7035.8400 to  
18 7035.8590, the terms in subparts 2 and 3 have the meanings given  
19 them.

20 Subp. 2. **Closure plan.** "Closure plan" means the plan for  
21 closure as required in part 7035.8250, subpart 2, and the  
22 applicable requirements of parts 7035.8250 and 7035.8260.

23 Subp. 3. **Current closure cost estimate.** "Current closure  
24 cost estimate" means the most recent of the estimates prepared  
25 in accordance with part 7035.8430.

26 7035.8420 FINANCIAL ASSURANCE REQUIRED.

27 The owner or operator of a waste tire facility shall  
28 establish financial assurance for closure of the facility within  
29 the time periods established in part 7035.8450, by obtaining one  
30 or more of the financial assurance mechanisms described in parts  
31 7035.8470, 7035.8480, 7035.8490, and 7035.8500, or a county-held  
32 financial assurance mechanism that meets the standards in part  
33 7035.8460. The financial assurance mechanism selected must  
34 provide the amount of financial assurance required by part

1 7035.8430. No financial assurance is required for old waste  
2 tires.

3 7035.8430 COST ESTIMATE FOR CLOSURE.

4 Subpart 1. Amount. The amount of financial assurance to  
5 be provided by the owner or operator of a waste tire facility  
6 shall be based on the estimates prepared under this part, and  
7 shall be established according to the time schedule in part  
8 7035.8450.

9 Subp. 2. Phase I waste tire collection estimate. The  
10 owner or operator of a waste tire facility shall make a written  
11 estimate, in current dollars, of the cost of complying with  
12 closure standards in parts 7035.8250 and 7035.8260 for all waste  
13 tires that have been collected at the facility at any time since  
14 the effective date of parts 7035.8200 to 7035.8710 and that will  
15 be collected at the facility at any time during the period from  
16 July 1, 1988, to July 1, 1990.

17 Subp. 3. Phase II waste tire collection estimate. The  
18 owner or operator of a waste tire facility shall make a written  
19 estimate, in current dollars, of the cost of complying with  
20 closure standards in parts 7035.8250 and 7035.8260 for the  
21 maximum number of new waste tires that will be collected at the  
22 facility at any time during the operating life of the facility.

23 Subp. 4. Submission to director. The estimates prepared  
24 under subparts 2 and 3 shall be submitted to the director with  
25 the permit application or upon the request of the director.

26 7035.8440 ADJUSTMENTS TO FINANCIAL ASSURANCE LEVEL.

27 Subpart 1. Yearly adjustment. After July 1, 1990, the  
28 owner or operator of a waste tire facility shall recalculate  
29 annually the cost of closure for new waste tires using an  
30 inflation factor. This inflation factor shall be calculated  
31 using the Implicit Price Deflator for Gross National Product as  
32 found in the Survey of Current Business issued annually by the  
33 United States Department of Commerce. The inflation factor is  
34 the result of dividing the latest published annual deflator by  
35 the deflator for the previous year. Upon request, the director

1 shall provide the inflation factor to the owner or operator.  
2 The closure cost estimate shall be recalculated by multiplying  
3 the latest closure cost estimate by the latest inflation  
4 factor. The financial assurance mechanism used by the owner and  
5 operator of the facility shall be adjusted to reflect changes in  
6 the cost of closure caused by inflation. The date upon which  
7 the owner or operator of a waste tire facility shall adjust the  
8 financial assurance mechanism shall be July 1 of each year.

9 Subp. 2. Other revisions. The owner or operator of the  
10 waste tire facility shall revise the closure cost estimate  
11 whenever a change in the closure plan changes the cost of  
12 closure. If the estimate of the cost of closure changes, the  
13 owner or operator of a waste tire facility shall increase or  
14 decrease the amount of financial assurance by following the  
15 procedures in part 7035.8470, 7035.8480, 7035.8490, or 7035.8500.

16 Subp. 3. Record keeping. During the operating life of the  
17 facility, the owner or operator of a waste tire facility shall  
18 keep a record of the latest adjusted closure cost estimate, and  
19 shall submit this record to the agency upon the request of the  
20 director.

21 7035.8450 SCHEDULE FOR ESTABLISHING FINANCIAL ASSURANCE.

22 Subpart 1. Scope. The owner or operator of a waste tire  
23 facility shall establish the required level of financial  
24 assurance under this part.

25 Subp. 2. Phase I. By July 1, 1988, the owner or operator  
26 of a waste tire facility shall establish financial assurance for  
27 all waste tires that have been collected since the effective  
28 date of parts 7035.8200 to 7035.8710, and for those waste tires  
29 that will be collected at the facility at any time during the  
30 next two years of operation. By July 1, 1988, the owner or  
31 operator of a waste tire facility shall submit to the director  
32 evidence that the financial assurance required under this  
33 subpart has been obtained.

34 Subp. 3. Phase II. By July 1, 1990, the owner or operator  
35 of a waste tire facility shall establish financial assurance for

1 the maximum number of new waste tires that will be collected at  
2 the facility at any time during the operating life of the  
3 facility. By July 1, 1990, the owner or operator of a waste  
4 tire facility shall submit to the director evidence that the  
5 financial assurance required under this subpart has been  
6 obtained.

7 7035.8460 COUNTY-HELD FINANCIAL ASSURANCE MECHANISM.

8 Subpart 1. **Scope.** An owner or operator of a waste tire  
9 facility may use a county-held financial assurance mechanism to  
10 satisfy the requirements of parts 7035.8400 to 7035.8590 if the  
11 county-held mechanism meets or exceeds the requirements of parts  
12 7035.8400 to 7035.8590. The wording of the instruments used to  
13 satisfy parts 7035.8400 to 7035.8590 must be identical to the  
14 wording in parts 7035.8550 to 7035.8590, except that the  
15 language that appears in double brackets must be used.

16 Subp. 2. **Action by the county.** A county holding a  
17 financial assurance mechanism for a waste tire facility in lieu  
18 of the agency must take all actions needed to gain access to the  
19 funds available through the financial assurance mechanism when  
20 the owner or operator of the waste tire facility has failed to:

21 A. begin or complete closure as required by the  
22 permit or part 7035.8260;

23 B. provide alternate financial assurance and obtain  
24 written approval of the financial assurance from the director  
25 and the county within the time period required by parts  
26 7035.8400 to 7035.8590; or

27 C. fund the standby trust fund within the specified  
28 time period as required by part 7035.8480.

29 Subp. 3. **Action by the director.** In the event that the  
30 county has failed to gain access to the funds available through  
31 the financial assurance mechanism within 30 days of the owner's  
32 or operator's failure to perform as specified in subpart 2, or  
33 if the county has failed to use any funds obtained under subpart  
34 2 to close the facility in compliance with the closure plan or  
35 part 7035.8260, including time schedules, the director shall be

1 given access to the funds. The county shall take no action that  
2 interferes with the director's access to the funds, and shall  
3 cooperate with the director if necessary to allow the director  
4 to gain access to the funds.

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

12 7035.8470 CLOSURE TRUST FUND.

13 Subpart 1. **Scope.** Subparts 2 to 13 apply to closure trust  
14 funds. For trust funds held by a county under part 7035.8460,  
15 provisions in this part that refer to the director shall apply  
16 to both the director and the county.

17 Subp. 2. **Establishment of trust fund.** An owner or  
18 operator of a waste tire facility may satisfy the requirements  
19 of part 7035.8420 by establishing a closure trust fund that  
20 conforms to the requirements of subparts 2 to 13 and by  
21 submitting an originally-signed duplicate of the trust agreement  
22 to the director. The trustee shall be an entity that has the  
23 authority to act as a trustee and whose trust operations are  
24 regulated and examined by a federal or state agency. The owner  
25 or operator of the waste tire facility shall submit the  
26 originally-signed duplicate of the trust agreement to the  
27 director with the facility permit application, or in accordance  
28 with part 7035.8450.

29 Subp. 3. **Wording of trust agreement.** The wording of the  
30 trust agreement must be identical to the wording in part  
31 7035.8550 and must be accompanied by a formal certification of  
32 acknowledgment as shown in part 7035.8560. The trust agreement  
33 must be updated within 60 days after a change in the amount of  
34 the current closure cost estimate covered by the agreement.

35 Subp. 4. **Pay-in period.** The owner or operator must make

1 annual payments into the trust fund over the period for which  
 2 the financial assurance is required, hereinafter called the  
 3 pay-in period. After July 1, 1990, the pay-in period shall  
 4 equal five years or the remaining operating life of the  
 5 facility, whichever is shorter.

6 Subp. 5. **Payments.** For a new facility, the first payment  
 7 must be made and a receipt submitted to the director before the  
 8 initial receipt of waste tires. For an existing facility, the  
 9 first payment must be made no later than 30 days after the  
 10 originally-signed duplicate of the trust agreement is sent to  
 11 the director. The first payment must at least be equal to the  
 12 applicable current closure cost estimate, divided by the number  
 13 of years in the pay-in period. Subsequent payments must be made  
 14 no later than 30 days after each anniversary date of the first  
 15 payment. The minimum amount of each subsequent payment must be  
 16 determined by this formula:

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

17  
 18  
 19  
 20  
 21 Where CE is the current closure cost estimate, CV is the current  
 22 value of the trust fund, and Y is the number of years remaining  
 23 in the pay-in period.

24 Subp. 6. **Establishment of trust fund as an alternate**  
 25 **financial assurance mechanism.** If the owner or operator chooses  
 26 to establish a closure trust fund after having used one or more  
 27 alternate financial assurance mechanisms in parts 7035.8470 to  
 28 7035.8500, the first payment into the trust fund must be at  
 29 least the amount that the fund would contain if the trust fund  
 30 were established initially and annual payments made according to  
 31 specifications of this part as applicable.

32 Subp. 7. **Additional payments.** If, after the pay-in period  
 33 is completed, the sum of the current closure cost estimate  
 34 changes, the owner or operator shall compare the new estimate  
 35 with the trustee's most recent annual valuation of the trust  
 36 fund. If the value of the fund is less than the amount of the

1 new estimate, the owner or operator, within 60 days after the  
2 change in the cost estimate, shall either deposit an amount into  
3 the fund so that its value after this deposit at least equals  
4 the amount of the current closure cost estimate and submit a  
5 receipt from the trustee for this payment to the director, or  
6 establish other financial assurance mechanisms as specified in  
7 parts 7035.8470 to 7035.8500 to cover the difference.

8 Subp. 8. Request for release of excess funds. During the  
9 operating life of the facility, if the value of the trust fund  
10 is greater than the sum of the current closure cost estimate,  
11 the owner or operator may submit a written request, together  
12 with supporting documents to the director, for release of the  
13 amount in excess of the current closure cost estimate covered by  
14 the trust fund.

15 Subp. 9. Substitution of alternate financial assurance  
16 mechanisms. If an owner or operator substitutes other financial  
17 assurance mechanisms as specified in parts 7035.8470 to  
18 7035.8500 in place of all or part of the trust fund, the owner  
19 or operator may submit a written request to the director for  
20 release of the amount in excess of the current closure cost  
21 estimate covered by the trust fund.

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

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

- 35 A. make the required payment;
- 36 B. provide alternate financial assurance as specified



1 in this part and obtain the director's written approval of the  
2 assurance provided; or

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

5 Subp. 12. Reimbursement. After beginning closure of the  
6 waste tire facility, an owner, operator, or other person  
7 authorized to perform closure may request reimbursement for  
8 completed closure expenditures by submitting itemized bills to  
9 the director. Within 60 days after receiving bills for  
10 completed closure activities, the director shall determine  
11 whether the closure expenditures are in accordance with the  
12 closure plan or are needed to ensure proper closure, and if so,  
13 the director shall instruct the trustee to make reimbursement in  
14 the amount the director specifies in writing. If the director  
15 has reason to believe that the cost of closure will be  
16 significantly greater than the value of the trust fund, the  
17 director may withhold reimbursement of the amount as considered  
18 prudent until it is determined, under part 7035.8530, that the  
19 owner or operator is no longer required to maintain financial  
20 assurance for closure.

21 Subp. 13. Termination of trust fund. The director shall  
22 agree to termination of the trust if:

23 A. an owner or operator substitutes alternate  
24 financial assurance as specified in parts 7035.8470 to  
25 7035.8530; or

26 B. the director releases the owner or operator from  
27 the requirements of this part under part 7035.8530.

28 7035.8480 SURETY BOND GUARANTEEING PAYMENT INTO A STANDBY TRUST  
29 FUND.

30 Subpart 1. Scope. Subparts 2 to 10 apply to surety bonds  
31 that guarantee payment into a standby trust fund. For surety  
32 bonds held by a county under part 7035.8460, provisions in this  
33 part that refer to the director shall apply to both the director  
34 and the county.

35 Subp. 2. Surety bond requirements. An owner or operator

1 may satisfy the requirements of part 7035.8420 by obtaining a  
 2 surety bond that conforms to the requirements of subparts 2 to  
 3 10 and by submitting the bond to the director. The surety  
 4 company issuing the bond must be among those listed as  
 5 acceptable sureties on federal bonds in Circular 570, issued by  
 6 the United States Department of the Treasury, as published  
 7 annually in the Federal Register on July 1. ~~An~~ The owner or  
 8 operator of the waste tire facility shall submit the bond to the  
 9 director with the facility permit application or ~~under~~ in  
 10 accordance with part 7035.8450.

11 Subp. 3. **Wording of surety bond.** The wording of the  
 12 surety bond must be identical to the wording specified in part  
 13 7035.8570.

14 Subp. 4. **Establishment of standby trust fund.** The owner  
 15 or operator who uses a surety bond to satisfy the requirements  
 16 of part 7035.8420 shall also establish a standby trust fund.  
 17 The bond shall require the surety to deposit all payments made  
 18 under the bond directly into the standby trust fund in  
 19 accordance with instructions from the director. An  
 20 originally-signed duplicate of the trust agreement must be  
 21 submitted to the director with the surety bond. The standby  
 22 trust fund must meet the requirements of part 7035.8470, except  
 23 that compliance with the requirements in items A to D is not  
 24 required until the standby trust fund is funded under this part:

25 A. payments into the trust fund as specified in part  
 26 7035.8470;

27 B. updating of Schedule A of the trust agreement to  
 28 show current closure cost estimates;

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

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

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

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

1 facility;

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

6           C. provide alternate financial assurance as specified  
7 in parts 7035.8470 to 7035.8500 and obtain the director's  
8 written approval of the assurance provided, within 90 days after  
9 receipt by the director of a notice of cancellation of the bond  
10 from the surety.

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

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

17           Subp. 8. **Changes to penal sum.** Within 60 days of an  
18 increase in the sum of the current closure cost estimate to an  
19 amount greater than the penal sum, the owner or operator shall  
20 either cause the penal sum to be increased to an amount at least  
21 equal to the sum of the current closure cost estimate and submit  
22 evidence of the increase to the director, or obtain other  
23 financial assurance as specified in parts 7035.8470 to 7035.8500  
24 to cover the increase. Whenever the sum of the current closure  
25 cost estimate decreases, the penal sum may be reduced to the sum  
26 of the current closure cost estimate following written approval  
27 by the director.

28           Subp. 9. **Notification.** The bond must provide that the  
29 surety may cancel the bond only by sending notice of  
30 cancellation by certified mail to the owner or operator and the  
31 director. The bond must also provide that cancellation shall  
32 not be effective until 120 days after the director has received  
33 the notice of cancellation, as evidenced by the return receipt.  
34 For a surety bond held by a county under part 7035.8460, the  
35 bond must provide a 150-day cancellation period rather than a  
36 120-day period.

1 Subp. 10. Cancellation of surety bond. The owner or  
2 operator may cancel the bond if the director has given prior  
3 written consent. The director shall provide written consent if:

4 A. an owner or operator substitutes alternate  
5 financial assurance as specified in parts 7035.8470 to  
6 7035.8500; or

7 B. the director releases the owner or operator from  
8 the requirements of this part in accordance with part 7035.8530.

9 7035.8490 LETTER OF CREDIT.

10 Subpart 1. Scope. Subparts 2 to 11 apply to closure  
11 letters of credit. For letters of credit held by a county under  
12 part 7035.8460, provisions in this part that refer to the  
13 director shall apply to both the director and the county.

14 Subp. 2. Letter of credit requirements. An owner or  
15 operator may satisfy the requirements of part 7035.8420 by  
16 obtaining an irrevocable letter of credit that conforms to the  
17 requirements of subparts 2 to 11, and by submitting the letter  
18 to the director. The issuing institution must be an entity that  
19 has the authority to issue letters of credit and whose letter of  
20 credit operations are regulated and examined by a federal or  
21 state agency. An The owner or operator of a the waste tire  
22 facility shall submit the letter of credit to the director with  
23 the facility permit application or ~~under~~ in accordance with part  
24 7035.8450.

25 Subp. 3. Wording of letter of credit. The wording of the  
26 letter of credit must be identical to the wording in part  
27 ~~7035-8490~~ 7035.8580.

28 Subp. 4. Establishment of standby trust fund. An owner or  
29 operator who uses a letter of credit to satisfy the requirements  
30 of part 7035.8420 shall also establish a standby trust fund.  
31 Under the terms of the letter of credit, the issuing institution  
32 will deposit all amounts paid directly into the standby trust  
33 fund in accordance with instructions from the director. An  
34 originally-signed duplicate of the standby trust fund agreement  
35 must be submitted to the director with the letter of credit.

1 The standby trust fund agreement must meet the requirements in  
2 part 7035.8470, except that compliance with the requirements in  
3 items A to D is not required until the standby trust fund is  
4 funded under this part:

5 A. payments into the trust fund as specified in part  
6 7035.8470;

7 B. updating of Schedule A of the trust agreement to  
8 show current closure cost estimates;

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

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

13 Subp. 5. **Submittal.** The letter of credit submitted to the  
14 director must be accompanied by a letter from the owner or  
15 operator referring to the letter of credit by number, issuing  
16 institution, date of issuance, the name and address of the waste  
17 tire facility, and the amount of funds assured for closure of  
18 the facility by the letter of credit.

19 Subp. 6. **Notification.** The letter of credit must be  
20 irrevocable and issued for a period of at least one year. The  
21 letter of credit must provide that the expiration date will be  
22 extended automatically for a period of at least one year unless,  
23 at least 120 days before the current expiration date, the  
24 issuing institution notifies both the owner or operator and the  
25 director by certified mail of a decision not to extend the  
26 expiration date. Under the terms of the letter of credit, the  
27 120 days must begin on the date when the director received the  
28 notice, as evidenced by the return receipt. For a letter of  
29 credit held by a county under part 7035.8460, the letter of  
30 credit must provide a 150-day expiration period rather than a  
31 120-day period.

32 Subp. 7. **Amount of credit.** The letter of credit must be  
33 issued in an amount at least equal to the sum of the applicable  
34 current closure cost estimate.

35 Subp. 8. **Changes to amount of credit.** Within 60 days of  
36 an increase in the sum of the current closure cost estimate to

1 an amount greater than the amount of the credit, the owner or  
2 operator shall either cause the amount of the credit to be  
3 increased to an amount at least equal to the sum of the current  
4 closure cost estimate and submit evidence of the increase to the  
5 director, or obtain other financial assurance as specified in  
6 parts 7035.8470 to 7035.8500 to cover the increase. Whenever  
7 the sum of the current closure cost estimate decreases, the  
8 amount of the credit may be reduced to the sum of the current  
9 closure cost estimate following written approval by the director.

10 Subp. 9. Failure to perform. The letter of credit must  
11 provide that the director may draw on the letter of credit, when  
12 the director has determined that the owner or operator has  
13 failed to perform closure when required to do so in accordance  
14 with the closure plan or part 7035.8260.

15 Subp. 10. Failure to establish alternate financial  
16 assurance. The director shall draw on the letter of credit if  
17 the owner or operator does not establish alternate financial  
18 assurance as specified in parts 7035.8470 to 7035.8500 and  
19 obtain written approval of alternate assurance from the director  
20 within 90 days after the director receives notice that the  
21 issuing institution has decided not to extend the letter of  
22 credit beyond the current expiration date. The director may  
23 delay the drawing if the issuing institution grants an extension  
24 of the term of the credit. During the last 30 days of any  
25 extension, the director shall draw on the letter of credit if  
26 the owner or operator has failed to provide alternate financial  
27 assurance as specified in parts 7035.8470 to 7035.8500 and  
28 obtain written approval of the assurance from the director.

29 Subp. 11. Termination of letter of credit. The director  
30 shall return the letter of credit to the issuing institution for  
31 termination if:

32 A. an owner or operator substitutes alternate  
33 financial assurance as specified in parts 7035.8470 to 7035.8500;  
34 or

35 B. the director releases the owner or operator from  
36 the requirements of this part in accordance with part 7035.8530.

1 7035.8500 SURETY BOND GUARANTEEING PERFORMANCE OF CLOSURE FOR  
2 PERMITTED FACILITIES.

3 Subpart 1. **Scope.** Subparts 2 to 11 apply to surety bonds  
4 that guarantee performance of closure. Surety bonds that  
5 guarantee performance of closure can only be used for permitted  
6 facilities with approved closure plans. For surety bonds held  
7 by a county under part 7035.8460, provisions in this part that  
8 refer to the director shall apply to both the director and the  
9 county.

10 Subp. 2. **Surety bond requirements.** An owner or operator  
11 may satisfy the requirements of part 7035.8420 by obtaining a  
12 surety bond that conforms to the requirements of subparts 2 to  
13 11 and by submitting the bond to the director. The surety  
14 company issuing the bond must be among those listed as  
15 acceptable sureties on federal bonds in Circular 570, issued by  
16 the United States Department of the Treasury, as published  
17 annually in the Federal Register on July 1. ~~An~~ The owner or  
18 operator of a the waste tire facility shall submit the bond to  
19 the director with the facility permit application or in  
20 accordance with part 7035.8450.

21 Subp. 3. **Wording of surety bond.** The wording of the  
22 surety bond must be identical to the wording specified in part  
23 7035.8590.

24 Subp. 4. **Establishment of standby trust fund.** The owner  
25 or operator who uses a surety bond to satisfy the requirements  
26 of part 7035.8420 shall also establish a standby trust fund.  
27 The bond shall require the surety to deposit all payments made  
28 under the bond directly into the standby trust fund in  
29 accordance with instructions from the director. An  
30 originally-signed duplicate of the standby trust fund agreement  
31 must be submitted to the director with the surety bond. The  
32 standby trust fund must meet the requirements of part 7035.8470,  
33 except that compliance with the requirements in items A to D is  
34 not required until the standby trust fund is funded under this  
35 part:

1           A. payments into the trust fund as specified in part  
2 7035.8470;

3           B. updating of Schedule A of the trust agreement to  
4 show current closure cost estimates;

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

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

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

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

14           B. provide alternate financial assurance as specified  
15 in parts 7035.8470 to 7035.8500 and obtain the director's  
16 written approval of the assurance provided, within 90 days after  
17 receipt by the director of a notice of cancellation of the bond  
18 from the surety.

19           Subp. 6. **Failure to perform.** Under the terms of the bond,  
20 the surety must become liable on the bond obligation when the  
21 owner or operator fails to perform as guaranteed by the bond.  
22 Following a determination by the director that the owner or  
23 operator has failed to perform closure in accordance with the  
24 closure plan, and other permit requirements, under the terms of  
25 the bond the surety shall deposit the amount of the penal sum  
26 into the standby trust fund.

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

30           Subp. 8. **Changes to penal sum.** Within 60 days of an  
31 increase in the sum of the current closure cost estimate to an  
32 amount greater than the penal sum, the owner or operator shall  
33 either cause the penal sum to be increased to an amount at least  
34 equal to the sum of the current closure cost estimate and submit  
35 evidence of the increase to the director, or obtain other  
36 financial assurance specified in parts 7035.8470 to 7035.8500.



1 Whenever the sum of the current closure cost estimate decreases,  
2 the penal sum may be reduced to the sum of the current closure  
3 cost estimate following written approval by the director.

4       Subp. 9. **Notification.** The bond must provide that the  
5 surety may cancel the bond only by sending notice of  
6 cancellation by certified mail to the owner or operator and to  
7 the director. The bond must also provide that cancellation  
8 shall not be effective until 120 days after the director has  
9 received the notice of cancellation as evidenced by the return  
10 receipt. For a surety bond held by a county under part  
11 7035.8460, the bond must provide a 150-day cancellation period  
12 rather than a 120-day period.

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

16           A. an owner or operator substitutes alternate  
17 financial assurance as specified in parts 7035.8470 to  
18 7035.8500; or

19           B. the director releases the owner or operator from  
20 the requirements of this part in accordance with part 7035.8530.

21       Subp. 11. **Limitation on liability.** The surety will not be  
22 liable for deficiencies in the owner's or operator's performance  
23 of closure after the director releases the owner or operator  
24 from the requirements of this part in accordance with part  
25 7035.8530.

26 7035.8510 USE OF MULTIPLE FINANCIAL ASSURANCE MECHANISMS.

27       An owner or operator may satisfy the requirements of part  
28 7035.8420 by establishing more than one financial assurance  
29 mechanism per waste tire facility. These mechanisms are limited  
30 to trust funds, surety bonds guaranteeing payment into a trust  
31 fund, and letters of credit. The mechanisms must be established  
32 as specified in parts 7035.8470, 7035.8480, and 7035.8490,  
33 except that it is the combination of mechanisms, rather than a  
34 single mechanism, that must provide financial assurance at least  
35 equal to the sum of the current closure cost estimate. If an

1 owner or operator uses a trust fund in combination with a surety  
2 bond or a letter of credit, the owner or operator may use the  
3 trust fund as the standby trust fund for the other mechanisms.  
4 A single standby trust fund may be established for two or more  
5 mechanisms. The director may use any or all of the financial  
6 assurance mechanisms to provide for closure of the facility.

7 7035.8520 USE OF FINANCIAL ASSURANCE MECHANISM FOR MULTIPLE  
8 WASTE TIRE FACILITIES.

9 An owner or operator may use a financial assurance  
10 mechanism specified in parts 7035.8470 to 7035.8500 to meet the  
11 requirements of part 7035.8420 for more than one waste tire  
12 facility. Evidence of financial assurance submitted to the  
13 director must include a list showing, for each facility, the  
14 name, address, and the amount of funds for closure assured by  
15 the mechanism. The amount of funds available through the  
16 mechanism must be no less than the sum of funds that would be  
17 available if a separate mechanism had been established and  
18 maintained for each facility. When directing disbursement of  
19 funds for closure at any of the facilities covered by the  
20 mechanism, the director shall direct that only the amount of  
21 funds designated for that facility be disbursed unless otherwise  
22 agreed to by the owner or operator.

23 7035.8530 RELEASE OF OWNER OR OPERATOR FROM FINANCIAL ASSURANCE  
24 REQUIREMENTS.

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

31 7035.8540 INCAPACITY OF OWNERS OR OPERATORS, GUARANTORS, OR  
32 FINANCIAL INSTITUTIONS.

33 Subpart 1. Notification of bankruptcy. An owner or  
34 operator shall notify the director by certified mail of the

1 commencement of a voluntary or involuntary proceeding under  
2 United States Code, title 11, Bankruptcy, naming the owner or  
3 operator as a debtor, within ten days after commencement of the  
4 proceeding.

5 Subp. 2. Incapacity of financial institutions. An owner  
6 or operator who fulfills the requirements of part 7035.8420 by  
7 obtaining a trust fund, surety bond, or letter of credit will be  
8 considered to be without the required financial assurance in the  
9 event of bankruptcy of the trustee or issuing institution; or in  
10 the event that the authority of the trustee to act as trustee is  
11 revoked or suspended; or in the event that the institution's  
12 authority to issue the surety bond or letter of credit is  
13 revoked or suspended. The owner or operator shall establish  
14 other financial assurance within 60 days after such an event.

15 7035.8550 LANGUAGE REQUIRED FOR TRUST AGREEMENT.

16 A trust agreement for a trust fund as specified in part  
17 7035.8470 must be worded as specified in this part.  
18 Instructions in brackets must be replaced with the relevant  
19 information and the brackets deleted. Instructions or language  
20 in double brackets shall be used when the instrument is to serve  
21 as a county-held financial assurance mechanism.

22

23 TRUST AGREEMENT

24 Trust Agreement, the "Agreement," entered into on [date] by  
25 [name of the owner or operator], a [name of state] [insert  
26 "corporation," "partnership," "association," or  
27 "proprietorship"], the "Grantor," and [name of corporate  
28 trustee], [insert "incorporated in the state of ....."  
29 or "a national bank"], the "Trustee."

30 RECITALS:

31 ° The Minnesota Pollution Control Agency (Agency), an  
32 agency of the state of Minnesota, has established rules  
33 applicable to the Grantor, requiring that an owner or operator  
34 of a waste tire facility shall provide assurance that funds will  
35 be available when needed for closure for the facility.

1       ° The Grantor has chosen to establish a trust to provide  
2 the financial assurance for the facilities identified in this  
3 Agreement.

4       ° The Grantor, acting through its duly authorized officers,  
5 has selected the Trustee to be the trustee under this Agreement,  
6 and the Trustee is willing to act as trustee.

7 **AGREEMENT:**

8       The Grantor and the Trustee agree as follows:

9       Section 1. Definitions. As used in this Agreement:

10       a. The term "Grantor" means the owner or operator who  
11 enters into this Agreement and any successors or assigns of the  
12 Grantor.

13       b. The term "Trustee" means the Trustee who enters into  
14 this Agreement and any successor Trustee.

15       c. The term "beneficiary" means the Minnesota Pollution  
16 Control Agency [[substitute "The term "1st beneficiary" means  
17 the [name of county]; the term "2nd beneficiary" means the  
18 Minnesota Pollution Control Agency" for the entire definition]].

19       Section 2. Identification of Facilities and Cost Estimates.

20 This Agreement pertains to the facilities and cost estimates, if  
21 any, identified on attached Schedule A [on Schedule A, for each  
22 facility list the name, address, and the current closure cost  
23 estimate for which financial assurance is demonstrated by this  
24 Agreement].

25       Section 3. Establishment of Fund. The Grantor and the  
26 Trustee establish a trust fund, the "Fund," for the benefit of  
27 the Agency [[substitute "1st and 2nd beneficiaries" for  
28 "Agency"]]. The Grantor and the Trustee intend that no third  
29 party have access to the Fund except as provided in this  
30 Agreement. The Fund is established initially as the property,  
31 which is acceptable to the Trustee and described in Schedule B  
32 attached to this Agreement. This property and any other  
33 property subsequently transferred to the Trustee is referred to  
34 as the Fund, together with all earnings and profits, less any  
35 payments or distributions made by the Trustee under this  
36 Agreement. The Fund shall be held by the Trustee, IN TRUST, as

1 provided in this Agreement. The Trustee shall not be  
2 responsible or undertake any responsibility for the amount or  
3 adequacy of, or any duty to collect from the Grantor, any  
4 payments necessary to discharge any liabilities of the Grantor  
5 established by the Agency.

6 Section 4. **Payment for Closure.** The Trustee shall make  
7 payments from the Fund as the Agency Director [[substitute "1st  
8 or 2nd beneficiary" for "Agency Director"]] shall direct, in  
9 writing, to provide for the payment of the costs of closure of  
10 the facilities covered by this Agreement. [[Add the following  
11 sentence "Direction to the Trustee shall be given by the 1st or  
12 2nd beneficiary in accordance with Section 14."]] The Trustee  
13 shall reimburse the Grantor or other persons as specified by the  
14 Agency Director [[substitute "1st or 2nd beneficiary" for  
15 "Agency Director"]] shall direct in writing. In addition, the  
16 Trustee shall refund to the Grantor the amounts the Agency  
17 Director [[substitute "1st or 2nd beneficiary" for "Agency  
18 Director"]] specifies in writing. Upon refund, these funds  
19 shall no longer constitute part of the Fund.

20 Section 5. **Payments Comprising the Fund.** Payments made to  
21 the Trustee for the Fund shall consist of cash or securities  
22 acceptable to the Trustee.

23 Section 6. **Trustee Management.** The Trustee shall invest  
24 and reinvest the principal income of the Fund as a single fund  
25 in accordance with general investment policies and guidelines.  
26 In investing, reinvesting, exchanging, selling, and managing the  
27 Fund, the Trustee's duties with respect to the trust fund shall  
28 be discharged solely in the interest of the beneficiary  
29 [[substitute "1st and 2nd beneficiaries" for "beneficiary"]] and  
30 with the care, skill, prudence, and diligence under the  
31 circumstances then prevailing that persons of prudence, acting  
32 in a like capacity and familiar with such matters, would use in  
33 the conduct of an enterprise of a like character and with like  
34 aims; except that:

35 a. securities or other obligations of the Grantor, or any  
36 other owner or operator of the facilities, or any of their

1 affiliates as defined in the Investment Company Act of 1940,  
2 United States Code, title 15, section 80a-2(a), shall not be  
3 acquired or held, unless they are securities or other  
4 obligations of the federal or state government;

5       b. the Trustee is authorized to invest the Fund in time or  
6 demand deposits of the Trustee, to the extent insured by an  
7 agency of the federal or state government; and

8       c. the Trustee is authorized to hold cash awaiting  
9 investment or distribution uninvested for a reasonable time and  
10 without liability for the payment of interest thereon.

11       Section 7. **Commingling and Investment.** The Trustee is  
12 expressly authorized in its discretion:

13       a. to transfer from time to time any or all of the assets  
14 of the Fund to any common, commingled, or collective trust fund  
15 created by the Trustee in which the Fund is eligible to  
16 participate, subject to all of the provisions thereof, to be  
17 commingled with the assets of other trusts participating  
18 therein; and

19       b. to purchase shares in any investment company registered  
20 under the Investment Company Act of 1940, United States Code,  
21 title 15, sections 80a-1 et seq., including one that may be  
22 created, managed, underwritten, or to which investment advice is  
23 rendered or the shares are sold by the Trustee. The Trustee may  
24 vote such shares in its discretion.

25       Section 8. **Express Powers of Trustee.** Without in any way  
26 limiting the powers and discretions conferred upon the Trustee  
27 by the other provisions of this Agreement or by law, the Trustee  
28 is expressly authorized and empowered:

29       a. to sell, exchange, convey, transfer, or otherwise  
30 dispose of any property held by it, by public or private sale.  
31 No person dealing with the Trustee may be bound to see to the  
32 application of the purchase money or to inquire into the  
33 validity or expediency of a sale or other disposition;

34       b. to make, execute, acknowledge, and deliver any and all  
35 documents of transfer and conveyance and any and all other  
36 instruments that may be necessary or appropriate to carry out

1 the powers granted in this Agreement;

2 c. to register any securities held in the Fund in its own  
3 name or in the name of a nominee and to hold any security in  
4 bearer form or in book entry, or to combine certificates  
5 representing the securities with certificates of the same issue  
6 held by the Trustee in other fiduciary capacities, or to deposit  
7 or arrange for the deposit of the securities in a qualified  
8 central depository even though, when so deposited, the  
9 securities may be merged and held in bulk in the name of the  
10 nominee of the depository with other securities deposited  
11 therein by another person, or to deposit or arrange for the  
12 deposit of any securities issued by the United States  
13 Government, or any agency or instrumentality thereof, with a  
14 federal reserve bank, but the books and records of the Trustee  
15 shall at all times show that all these securities are part of  
16 the Fund;

17 d. to deposit any cash in the Fund in interest-bearing  
18 accounts maintained or savings certificates issued by the  
19 Trustee, in its separate corporate capacity, or in any other  
20 banking institution affiliated with the Trustee, in its separate  
21 corporate capacity, or in any other banking institution  
22 affiliated with the Trustee, to the extent insured by an agency  
23 of the federal or state government; and

24 e. to compromise or otherwise adjust all claims in favor  
25 of or against the Fund.

26 **Section 9. Taxes and Expenses.** All taxes of any kind that  
27 may be assessed or levied against or in respect of the Fund and  
28 all brokerage commissions incurred by the Fund shall be paid  
29 from the Fund. All other expenses incurred by the Trustee in  
30 connection with the administration of this Trust, including fees  
31 for legal services rendered to the Trustee, the compensation of  
32 the Trustee to the extent not paid directly by the Grantor, and  
33 all other proper charges and disbursements of the Trustee shall  
34 be paid from the Fund.

35 **Section 10. Annual Valuation.** The Trustee shall annually,  
36 at least 30 days prior to the anniversary date of establishment

1 of the Fund, furnish to the Grantor and to the Agency Director  
2 [[substitute "1st and 2nd beneficiaries" for "Agency Director"]]  
3 a statement confirming the value of the Trust. Any securities  
4 in the Fund shall be valued at market value as of no more than  
5 60 days prior to the anniversary date of establishment of the  
6 Fund. The failure of the Grantor to object in writing to the  
7 Trustee within 90 days after the statement has been furnished to  
8 the Grantor and the Agency Director [[substitute "1st and 2nd  
9 beneficiaries" for "Agency Director"]] shall constitute a  
10 conclusively binding assent by the Grantor, barring the Grantor  
11 from asserting any claim or liability against the Trustee with  
12 respect to matters disclosed in the statement.

13       Section 11. **Advice of Counsel.** The Trustee may from time  
14 to time consult with counsel with respect to any question  
15 arising as to the construction of this Agreement or any action  
16 to be taken hereunder. The Trustee shall be fully protected, to  
17 the extent permitted by law, in acting upon the advice of  
18 counsel.

19       Section 12. **Trustee Compensation.** The Trustee shall be  
20 entitled to reasonable compensation for its services as agreed  
21 upon in writing from time to time with the Grantor.

22       Section 13. **Successor Trustee.** The Trustee may resign or  
23 the Grantor may replace the Trustee, but the resignation or  
24 replacement shall not be effective until the Grantor has  
25 appointed a successor trustee and this successor accepts the  
26 appointment. The successor trustee shall have the same powers  
27 and duties as those conferred upon the Trustee hereunder. Upon  
28 the successor trustee's acceptance of the appointment, the  
29 Trustee shall assign, transfer, and pay over to the successor  
30 trustee the funds and properties then constituting the Fund. If  
31 for any reason the Grantor cannot or does not act in the event  
32 of the resignation of the Trustee, the Trustee may apply to a  
33 court of competent jurisdiction for the appointment of a  
34 successor trustee or for instructions. The successor trustee  
35 shall specify the date that it assumes administration of the  
36 trust in a writing sent to the Grantor, the Agency Director



1 [[substitute "1st and 2nd beneficiaries" for "Agency Director"]]  
2 and the present Trustee by certified mail ten days before the  
3 change becomes effective. Any expenses incurred by the Trustee  
4 as a result of any of the acts contemplated by this Section  
5 shall be paid as provided in Section 9.

6 Section 14. Instructions to the Trustee. All orders,  
7 requests, and instructions by the Agency Director [[substitute  
8 "1st or 2nd beneficiary" for "Agency Director"]] to the Trustee  
9 shall be in writing, signed by the Agency Director [[substitute  
10 "a designee of the 1st or 2nd beneficiary" for "the Agency  
11 Director"]]; and the Trustee shall act and shall be fully  
12 protected in acting in accordance with the orders, requests, and  
13 instructions [[add, "except that the Trustee shall not act in  
14 accordance with the orders, requests, and instructions of the  
15 1st beneficiary if the 2nd beneficiary notifies the Trustee, in  
16 writing, that the Trustee shall only act in accordance with the  
17 orders, requests, and instructions of the 2nd beneficiary. In  
18 the event that the Trustee has received such notice from the 2nd  
19 beneficiary, the Trustee shall only act in accordance with the  
20 orders, requests, and instructions from the 2nd beneficiary"]].  
21 The Trustee shall have the right to assume, in the absence of  
22 written notice to the contrary, that no event constituting a  
23 change or a termination of the authority of any person to act on  
24 behalf of the Grantor or the Agency [[substitute "1st or 2nd  
25 beneficiary" for "Agency"]] under this Agreement has occurred.  
26 The Trustee shall have no duty to act in the absence of orders,  
27 requests, and instructions from the Agency Director,  
28 [[substitute "a designee of the 1st or 2nd beneficiary" for "the  
29 Agency Director"]] except as provided in this Agreement.

30 Section 15. Notice of Nonpayment. The Trustee shall  
31 notify the Grantor and the Agency Director [[substitute "1st and  
32 2nd beneficiaries" for "Agency Director"]] by certified mail  
33 within ten days following the expiration of the 30-day period  
34 after the anniversary of the establishment of the Trust, if no  
35 payment is received from the Grantor during that period. After  
36 the pay-in period is completed, the Trustee shall not be

1 required to send a notice of nonpayment.

2 Section 16. **Amendment of Agreement.** This Agreement may be  
3 amended by an instrument in writing executed by the Grantor, the  
4 Trustee, and the Agency Director or by the Trustee and the  
5 Agency Director, if the Grantor ceases to exist.

6 Section 17. **Irrevocability and Termination.** Subject to  
7 the right of the parties to amend this Agreement as provided in  
8 Sections 13 and 16, this Trust shall be irrevocable and shall  
9 continue until terminated at the written agreement of the  
10 Grantor, the Trustee, and the Agency Director [[substitute "1st  
11 and 2nd beneficiaries" for "Agency Director"]] or by the Trustee  
12 and the Agency Director [[substitute "1st and 2nd beneficiaries"  
13 for "Agency Director"]] if the Grantor ceases to exist. Upon  
14 termination of the Trust, all remaining trust property, less  
15 final trust administration expenses, shall be delivered to the  
16 Grantor or any successors or assigns of the Grantor.

17 Section 18. **Immunity and Indemnification.** The Trustee  
18 shall not incur personal liability of any nature in connection  
19 with any act or omission, made in good faith, in the  
20 administration of this Trust, or in carrying out any directions  
21 by the Agency Director [[substitute "1st or 2nd beneficiary" for  
22 "Agency Director"]] issued in accordance with this Agreement.  
23 The Trustee shall be indemnified and saved harmless by the  
24 Grantor or from the Trust Fund, or both, from and against any  
25 personal liability to which the Trustee may be subjected by  
26 reason of any act or conduct in its official capacity, including  
27 all expenses reasonably incurred in its defense in the event the  
28 Grantor fails to provide a defense.

29 Section 19. **Choice of Law.** This Agreement shall be  
30 administered, construed, and enforced according to the laws of  
31 the state of Minnesota.

32 Section 20. **Interpretation.** As used in this Agreement,  
33 words in the singular include the plural and words in the plural  
34 include the singular. The descriptive headings for each Section  
35 of this Agreement shall not affect the interpretation or the  
36 legal efficacy of this Agreement.

1 The parties have caused this Agreement to be executed by  
2 their respective officers duly authorized and their corporate  
3 seals to be affixed and attested on the date first above  
4 written. The parties below certify that the wording of this  
5 Agreement is identical to the wording specified in Minnesota  
6 Rules, part 7035.8550, as the rules were constituted on the date  
7 of signing.

8 [SIGNATURE OF GRANTOR]

9 [TITLE]

10 Attest:

11 [TITLE]

12 [SEAL]

13 [SIGNATURE OF TRUSTEE]

14 Attest:

15 [TITLE]

16 [SEAL]

17 , 7035.8560 LANGUAGE REQUIRED FOR CERTIFICATE OF ACKNOWLEDGMENT.

18 This part contains an example of the certification of  
19 acknowledgment that must accompany the trust agreement for a  
20 trust fund as specified in part 7035.8470.

21 CERTIFICATION OF ACKNOWLEDGMENT

22 State of \_\_\_\_\_

23 County of \_\_\_\_\_

24 On this [date], before me personally came [owner or  
25 operator] to me known, who, being by me duly sworn, did depose  
26 and say that she/he resides at [address], that she/he is [title]  
27 of [corporation, proprietorship, local government entity], the  
28 entity described in and that executed the above instrument; that  
29 she/he knows the seal of said [corporation, local government  
30 entity]; that the seal affixed to the instrument is the  
31 [corporate, local government entity's] seal; that it was so  
32 affixed by order of the [Board of Directors, Board of  
33 Commissioners, City Council] of said [corporation, local  
34 government entity] and that she/he signed her/his name thereto  
35 by like order:

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(signature of Notary Public)

7035.8570 LANGUAGE REQUIRED FOR SURETY BOND GUARANTEEING PAYMENT INTO A STANDBY TRUST FUND.

A surety bond guaranteeing payment into a trust fund as specified in part 7035.8480 must be worded as in this part. The instructions in brackets must be replaced with the relevant information and the brackets deleted. Instructions or language in double brackets must be used when the instrument is to serve as a county-held financial assurance mechanism.

FINANCIAL GUARANTEE BOND

Date bond executed: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Principal: [Legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: \_\_\_\_\_

Surety(ies): [name(s) and business address(es)]

Name, address, and closure amount(s) for each facility guaranteed by this bond:

Total penal sum of bond: \$ \_\_\_\_\_

Surety's bond number: \_\_\_\_\_

Know All Persons By These Presents, That we, the Principal and Surety(ies) are firmly bound to the Minnesota Pollution Control Agency (hereinafter called Agency) [[and the [name of county] (hereinafter county)]] in the penal sum for the payment we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in the sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of the sum only as is set forth

1 opposite the name of the Surety; but if no limit of liability is  
2 indicated, the limit of liability shall be the full amount of  
3 the penal sum.

4 Whereas said Principal is required to have a permit or  
5 provisional status in order to own or operate each waste tire  
6 facility identified above, and

7 Whereas said Principal is required to provide financial  
8 assurance for closure as a condition of the permit or  
9 provisional status, and

10 Whereas said Principal shall establish a standby trust fund  
11 as required when a surety bond is used to provide financial  
12 assurance;

13 Now, Therefore, the conditions of the obligation are such  
14 that if the Principal faithfully, before the beginning of  
15 closure of each facility identified above, funds the standby  
16 trust fund in the amount(s) identified above for the closure of  
17 the facility,

18 Or, if the Principal funds the standby trust fund in the  
19 amount(s) identified above for closure of the facility within 15  
20 days after an order to begin closure is issued by the Agency  
21 Director, the Agency, [[county,]] or court of competent  
22 jurisdiction,

23 Or, if the Principal provides alternate financial  
24 assurance, as specified in parts 7035.8470 to 7035.8500 as  
25 applicable and obtains the Agency Director's [[and the  
26 county's]] written approval of assurance, within 90 days after  
27 the date the notice of cancellation is received by the Agency  
28 Director from the Surety(ies),

29 Then this obligation shall be null and void, otherwise it  
30 is to remain in full force and effect.

31 The Surety(ies) shall become liable on this bond obligation  
32 only when the Principal has failed to fulfill the conditions  
33 described above. Upon notification by the Agency Director [[or  
34 the county]] that the Principal has failed to perform as  
35 guaranteed by this bond, the Surety(ies) shall place funds in  
36 the amount guaranteed for the facility(ies) into the standby

1 trust fund as directed by the Agency Director [[or the county]].

2 The liability of the Surety(ies) shall not be discharged by  
3 any payment or succession of payments hereunder, unless and  
4 until payment or payments shall amount in the aggregate to the  
5 penal sum of the bond, but in no event shall the obligation of  
6 the Surety(ies) hereunder exceed the amount of said penal sum.

7 The Surety(ies) may cancel the bond by sending notice of  
8 cancellation by certified mail to the Principal and to the  
9 Agency Director [[and to the county]]; provided, however, that  
10 cancellation shall not occur during the 120 [[substitute "150"  
11 for "120"]] days beginning on the date of receipt of the notice  
12 of cancellation by the Agency Director, as evidenced by the  
13 return receipt.

14 The Principal may terminate this bond by sending written  
15 notice to the Surety(ies); provided, however, that no such  
16 notice shall become effective until the Surety(ies) receive(s)  
17 written authorization for termination of the bond by the Agency  
18 Director [[and the county]].

19 (The following paragraph is an optional rider that may be  
20 included but is not required.)

21 The Principal and Surety(ies) agree to adjust the penal sum  
22 of the bond yearly so that it guarantees a new closure amount,  
23 provided that the penal sum does not increase by more than 20  
24 percent in any year, and no decrease in the penal sum takes  
25 place without the written permission of the Agency Director  
26 [[and the county]].

27 The Principal and Surety(ies) have signed this Financial  
28 Guarantee Bond on the date set forth above.

29 The persons whose signatures appear below hereby certify  
30 that they are authorized to sign this surety bond on behalf of  
31 the Principal and Surety(ies) and that the wording of this  
32 surety bond is identical to the wording specified in Minnesota  
33 Rules, part 7035.8570, as the rules were constituted on the date  
34 this bond was signed.

35  
36 Principal  
37 [SIGNATURE(S)]

1 [NAME(S)]  
 2 [TITLE(S)]  
 3  
 4 Corporate Surety(ies)  
 5 [NAME AND ADDRESS]  
 6 State of incorporation: \_\_\_\_\_  
 7 Liability limit: \$ \_\_\_\_\_  
 8 [SIGNATURE(S)]  
 9 [NAME(S) AND TITLE(S)]  
 10 [For every co-surety, provide signature(s), and other information  
 11 in the same manner as for Surety above.]  
 12  
 13 Bond premium: \$ \_\_\_\_\_

14 7035.8580 LANGUAGE REQUIRED FOR LETTER OF CREDIT.

15 A letter of credit, as specified in part 7035.8490, must be  
 16 worded as specified in this part. The instructions in brackets  
 17 must be replaced with the relevant information and the brackets  
 18 deleted. The instructions or language in double brackets must  
 19 be used when the instrument is to serve as a county-held  
 20 financial assurance mechanism.

21 IRREVOCABLE STANDBY LETTER OF CREDIT

22 [Agency Director]  
 23 Minnesota Pollution Control Agency  
 24  
 25 [[county designee]]  
 26 [[(name of county)]]  
 27

28 Dear Director [[and county designee]]:  
29

30 We hereby establish our Irrevocable Standby Letter of  
 31 Credit No. \_\_\_\_\_ in your favor, at the request and for the  
 32 account of [owner's or operator's name and address] up to the  
 33 aggregate amount of [in words] U.S. dollars \$ \_\_\_\_\_,  
 34 available upon presentation of:

- 35 1. your sight draft, bearing reference to this Letter of
- 36 Credit No. \_\_\_\_\_, and
- 37 2. your signed statement reading as follows: "I certify
- 38 that the amount of the draft is payable pursuant to the State of
- 39 Minnesota's rules regarding the management of waste tires."

40 This letter of credit is effective as of [date] and shall  
 41 expire on [date at least one year later], but the expiration  
 42 date shall be automatically extended for a period of [at least  
 43 one year] on [date] and on each successive expiration date,  
 44 unless, at least 120 days before the current expiration date, we  
 45 notify you by certified mail that we have decided not to extend

1 this letter of credit beyond the current expiration date. In  
 2 the event you are so notified, any unused portion of the credit  
 3 shall be available upon presentation of your sight draft for 120  
 4 days after the date of receipt by you, as shown on the signed  
 5 return receipt.

6 Whenever this letter of credit is drawn on and under and in  
 7 compliance with the terms of this credit, we shall duly honor  
 8 the draft upon presentation to us and we shall deposit the  
 9 amount of the draft directly into the standby trust fund of  
 10 [owner's or operator's name] in accordance with your  
 11 instructions.

12 We certify that the wording of this letter of credit is  
 13 identical to the wording specified in Minnesota Rules, part  
 14 7035.8580, on the date shown immediately below.

15 [SIGNATURE(S) AND TITLE(S) OF OFFICIAL(S) OF ISSUING  
 16 INSTITUTION]  
 17 [DATE]

18 This credit subject to (insert "the most recent edition of  
 19 the Uniform Customs and Practice for Documentary Credits,  
 20 published by the International Chamber of Commerce," or "the  
 21 Uniform Commercial Code published in Minnesota Statutes, chapter  
 22 336").

23 7035.8590 LANGUAGE REQUIRED FOR SURETY BOND GUARANTEEING  
 24 PERFORMANCE OF CLOSURE.

25 A surety bond guaranteeing performance of closure as  
 26 specified in part 7035.8500, must be worded as specified in this  
 27 part. The instructions in brackets must be replaced with the  
 28 relevant information and the brackets deleted. The instructions  
 29 and language in double brackets must be used if the instrument  
 30 is to serve as a county-held financial assurance mechanism.

31 PERFORMANCE BOND

32 Date bond executed: \_\_\_\_\_  
 33 Effective date: \_\_\_\_\_  
 34 Principal: [legal name and business address  
 35 of owner or operator]  
 36 Type of organization: [insert "individual," "joint venture,"  
 37 "partnership," or "corporation"]  
 38 State of incorporation: \_\_\_\_\_  
 39 Surety(ies): [name(s) and business address(es)]  
 40 Name, address, and closure amount(s) for each facility  
 41 guaranteed by this bond: \_\_\_\_\_



1 Total penal sum of bond: \$ \_\_\_\_\_  
 2 Surety's bond number: \_\_\_\_\_

3 Know All Persons By These Presents, That we, the Principal  
 4 and Surety(ies) are firmly bound to the Minnesota Pollution  
 5 Control Agency (hereinafter called Agency) [[and the [name of  
 6 county] (hereinafter called county)], in the penal sum for the  
 7 payment we bind ourselves, our heirs, executors, administrators,  
 8 successors, and assigns jointly and severally; provided that,  
 9 where the Surety(ies) are corporations acting as co-sureties,  
 10 we, the Sureties, bind ourselves in the sum "jointly and  
 11 severally" only for the purpose of allowing a joint action or  
 12 actions against any or all of us, and for all other purposes  
 13 each Surety binds itself, jointly and severally with the  
 14 Principal, for the payment of the sum only as is set forth  
 15 opposite the name of the Surety, but if no limit of liability is  
 16 indicated, the limit of liability shall be the full amount of  
 17 the penal sum.

18 Whereas said Principal is required to have a permit in  
 19 order to own or operate each waste tire facility identified  
 20 above, and

21 Whereas said Principal is required to provide financial  
 22 assurance for closure; or closure action as a condition of the  
 23 permit, and

24 Whereas said Principal shall establish a standby trust fund  
 25 as is required when a surety bond is used to provide financial  
 26 assurance;

27 Now, Therefore, the conditions of this obligation are such  
 28 that if the Principal faithfully performs closure, whenever  
 29 required to do so, of each facility for which this bond  
 30 guarantees closure, in accordance with the closure plan and  
 31 other requirements of the permit including any amendments, and  
 32 pursuant to all applicable laws, statutes, rules, and  
 33 regulations, as currently in force and as may in the future be  
 34 in force.

35 Or, if the Principal provides alternate financial assurance  
 36 as specified in Minnesota Rules, parts 7035.8470 to 7035.8500,

1 and obtains the Agency Director's [[and the county's]] written  
2 approval of the assurance, within 90 days after the date the  
3 notice of cancellation is received by the Agency Director from  
4 the Surety(ies),

5 Then this obligation shall be null and void, otherwise it  
6 is to remain in full force and effect.

7 The Surety(ies) shall become liable on this bond obligation  
8 only when the Principal has failed to fulfill the conditions  
9 described above.

10 Upon notification by the Agency Director [[or the county]]  
11 that the Principal has been found in violation of the closure  
12 requirements for a facility that this bond guarantees  
13 performance of closure, the Surety(ies) shall either perform  
14 closure in accordance with the closure plan and other permit  
15 requirements or place the closure amounts guaranteed for the  
16 facility into the standby trust fund, as directed by the Agency  
17 Director [[or the county]].

18 Upon notification by the Agency Director [[or the county]]  
19 that the Principal has failed to provide alternate financial  
20 assurance as specified in Minnesota Rules, parts 7035.8470 to  
21 7035.8500, and obtain written approval of the assurance from the  
22 Agency Director [[and the county]] during the 90 days following  
23 receipt by the Agency Director of a notice of cancellation of  
24 the bond, the Surety(ies) shall place funds in the amount  
25 guaranteed for the waste tire facility(ies) into the standby  
26 trust fund as directed by the Agency Director.

27 The Surety(ies) hereby waive(s) notification of amendments  
28 to closure plans, permits, applicable laws, statutes, rules, and  
29 regulations and agrees that no amendment shall in any way  
30 alleviate its (their) obligation on this bond.

31 The liability of the Surety(ies) shall not be discharged by  
32 any payment or succession of payments hereunder, unless and  
33 until the payment or payments shall amount in the aggregate to  
34 the penal sum of the bond, but in no event shall the obligation  
35 of the Surety(ies) hereunder exceed the amount of said penal sum.

36 The Surety(ies) may cancel the bond by sending notice of

1 cancellation by certified mail to the owner or operator and to  
 2 the Agency Director [[add "and the county"]], provided, however,  
 3 that cancellation shall not occur during the 120 [[substitute  
 4 "150" for "120"]] days beginning on the date of receipt of the  
 5 notice of cancellation by the Agency Director, as evidenced by  
 6 the return receipt.

7 The Principal may terminate this bond by sending written  
 8 notice to the Surety(ies); provided, however, that no notice  
 9 shall become effective until the Surety(ies) receive(s) written  
 10 authorization for termination of the bond by the Agency Director  
 11 [[add "and the county"]].

12 (The following paragraph is an optional rider that may be  
 13 included but is not required.)

14 The Principal and Surety(ies) hereby agree to adjust the  
 15 penal sum of the bond yearly so that it guarantees a new closure  
 16 amount, provided that the penal sum does not increase by more  
 17 than 20 percent in any one year, and no decrease in the penal  
 18 sum takes place without the written permission of the Agency  
 19 Director [[add "and the county"]].

20 The Principal and Surety(ies) have signed this Performance  
 21 Bond on the date set forth above.

22 The persons whose signatures appear below hereby certify  
 23 that they are authorized to sign this surety bond on behalf of  
 24 the Principal and Surety(ies) and that the wording of this  
 25 surety bond is identical to the wording in Minnesota Rules, part  
 26 7035.8590, as the rule was constituted on the date this bond was  
 27 signed.

28 Principal  
 29 [SIGNATURE(S)]  
 30 [NAME(S)]  
 31 [TITLE(S)]  
 32

33 Corporate Surety(ies)  
 34 [NAME AND ADDRESS]  
 35 State of incorporation: \_\_\_\_\_  
 36 Liability limit: \$ \_\_\_\_\_  
 37 [SIGNATURE(S)]  
 38 [NAME(S) AND TITLE(S)]

39 [For every co-surety, provide signature(s), and other information  
 40 in the same manner as for Surety above.]

41  
 42 Bond premium: \$ \_\_\_\_\_

43 REQUIREMENTS FOR WASTE TIRE

## 1 GENERATION AND TRANSPORTATION

## 2 7035.8700 WASTE TIRE GENERATION.

3 Subpart 1. Scope. The requirements of subpart 2 apply to  
4 all persons who generate waste tires. The requirements of  
5 subpart 3 only apply to persons who generate more than 50 waste  
6 tires in a calendar year.

7 Subp. 2. Waste tire generation. Within 60 days of the  
8 effective date of parts 7035.8200 to 7035.8710, any person who  
9 generates waste tires, and who contracts or arranges with a  
10 person for their disposal, shall only contract or arrange for  
11 disposal of waste tires with a person displaying an agency waste  
12 tire transporter identification number, or a person exempt under  
13 part 7035.8710, subpart 2.

14 Subp. 3. Generator record keeping. All persons who  
15 generate more than 50 waste tires in a calendar year shall  
16 maintain a record of the quantity and type of waste tires sent  
17 for disposal. For shipments made in accordance with subpart 2,  
18 this record shall also note the name of the person transporting  
19 the waste tires, the identification number of the waste tire  
20 transporter, if applicable, and the date of the transaction.  
21 For persons who transport their own waste tires for disposal,  
22 this record shall also note the date of shipment, and the name  
23 of the waste tire facility where the waste tires were  
24 delivered. When requested by the director, this record shall be  
25 made available for inspection. This record shall be retained  
26 for three years from the date of the transaction.

## 27 7035.8710 WASTE TIRE TRANSPORTATION.

28 Subpart 1. Scope. This part sets out the requirements  
29 that shall be applied to persons who are in the business of  
30 transporting waste tires.

31 Subp. 2. Exempt persons. The requirements of this part  
32 shall not apply to:

33 A. a person who transports household quantities of  
34 waste tires incidental to municipal waste collection, and  
35 delivers those waste tires to a permitted solid waste facility,

1 a waste tire facility with a permit or provisional status, or a  
2 waste tire facility that is exempt from the requirement to  
3 obtain a waste tire permit;

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

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

15 D. a person transporting waste tires that will only  
16 be used for agricultural purposes which do not include burning;

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

19 F. a person who generates waste tires and removes  
20 those waste tires from the waste tire generation site and  
21 delivers those waste tires to a waste tire facility.

22 Subp. 3. **Agency identification number required.** Except as  
23 exempt by subpart 2, any person who transports waste tires must  
24 obtain and display an agency waste tire transporter  
25 identification number when transporting waste tires. The  
26 information that must be submitted to the director to obtain an  
27 agency waste tire transporter identification number is specified  
28 in part 7001.4150.

29 Subp. 4. **Waste tire transportation.** A transporter who  
30 collects waste tires from a person who generates waste tires, a  
31 waste tire facility, or a tire dump must deliver the waste tires  
32 to a waste tire facility with a permit or provisional status, or  
33 a waste tire facility that is exempt from the requirement to  
34 obtain a waste tire permit.

35 Subp. 5. **Record keeping.** Transporters shall record and  
36 maintain the following information regarding their activities

1 for each month of operation:

2           A. the type and quantity of waste tires collected;

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

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

6           Subp. 6. Submittal of operating record. Transporters  
7 shall submit to the director an operating record that identifies  
8 the transporter by name and identification number, and that  
9 summarizes the information accumulated under subpart 5 for the  
10 three months preceding the month the record is to be submitted.  
11 This record shall be submitted ten days after April 1, July 1,  
12 October 1, and January 1 of each year.