

1 Waste Management Board

2

3 Adopted Permanent Rules Relating to Waste Tire Permits

4

5 Rules as Adopted

6 7001.0020 SCOPE.

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

9 A. to K. [Unchanged.]

10 7001.0040 APPLICATION DEADLINES.

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

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

19 7001.0050 WRITTEN APPLICATION.

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

32 A. to H. [Unchanged.]

33 I. other information relevant to the application as
34 required by parts 7001.0550 to 7001.0640, 7001.1050, 7001.1215,

1 7001.1290, or 7040.0500 and 7040.0600.

2 7001.0190 PROCEDURE FOR MODIFICATION; REVOCATION AND REISSUANCE;
3 AND REVOCATION WITHOUT REISSUANCE OF PERMITS.

4 Subpart 1. [Unchanged.]

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

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

22 Subp. 3. **Minor modification.** Upon obtaining the consent
23 of the permittee, the director may modify a permit to make the
24 following corrections or allowances without following the
25 procedures in parts 7001.0100 to 7001.0130:

26 A. and B. [Unchanged.]

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

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

35 Subp. 4. [Unchanged.]

1 9220.0200 SCOPE.

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

7 9220.0210 DEFINITIONS.

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

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

14 Subp. 3. **Board.** "Board" means the Minnesota Waste
15 Management Board.

16 Subp. 4. **Chair.** "Chair" means the chair of the Minnesota
17 Waste Management Board.

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

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

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

28 Subp. 8. **Existing waste tire facility.** "Existing waste
29 tire facility" means a facility that is receiving waste tires on
30 the effective date of this chapter.

31 Subp. 9. **Floodway.** "Floodway" has the meaning given in
32 Minnesota Statutes, section 104.02, subdivision 4.

33 Subp. 10. **Operator.** "Operator" means the person
34 responsible for the overall operation of the waste tire
35 facility. An operator is a tire collector or tire processor as

1 defined in Minnesota Statutes, section 115A.90, subdivisions 8
2 and 10.

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

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

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

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

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

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

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

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

24 Subp. 19. **Tire.** "Tire" has the meaning given in Minnesota
25 Statutes, section 115A.90, subdivision 7.

26 Subp. 20. **Tire collector.** "Tire collector" has the
27 meaning given in Minnesota Statutes, section 115A.90,
28 subdivision 8.

29 Subp. 21. **Tire-derived products.** "Tire-derived products"
30 means the usable materials produced from the chemical or
31 physical processing of a waste tire.

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

34 Subp. 23. **Tire processor.** "Tire processor" has the
35 meaning given in Minnesota Statutes, section 115A.90,
36 subdivision 10.

1 Subp. 24. **Transporter.** "Transporter" means a person who
2 removes waste tires from a source of generation, a tire dump, or
3 a waste tire facility.

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

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

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

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

22 Subp. 29. **Waste tire transfer facility.** "Waste tire
23 transfer facility" means an area where waste tires are
24 concentrated for transport to waste tire processing facilities.
25 A waste tire transfer facility must meet the qualifications in
26 part 9220.0460.

27 Subp. 30. **Wetland.** "Wetland" means an area that is
28 covered by standing water during any portion of a year. Wetland
29 includes but is not limited to wetlands as defined in
30 Classification of Wetlands and Deep Water Habitats of the United
31 States, 1979. This publication is available at the Minnesota
32 State Law Library, Ford Building, 117 University Avenue, Saint
33 Paul, Minnesota 55155. This publication is incorporated into
34 this definition by reference and is not subject to frequent
35 change.

1 9220.0220 LAND DISPOSAL PROHIBITED.

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

4 9220.0230 PERMIT REQUIRED.

5 Subpart 1. **Permit required.** Except as provided in subpart
6 2, no person may do any of the following without obtaining a
7 waste tire facility permit from the board:

8 A. store, process, or dispose of waste tires or
9 tire-derived products; or

10 B. establish, construct, modify, own, or operate a
11 waste tire facility.

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

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

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

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

24 D. a permitted landfill operator with less than
25 10,000 waste tires stored above ground at the permitted site;

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

28 F. a person conducting abatement activities under an
29 abatement order or stipulation agreement entered into under part
30 ~~7035-8020~~ 9220.0120. This exemption does not exempt the person
31 from the duty to obtain a waste tire facility permit for
32 activities other than the abatement action.

33 Subp. 3. **Closure of facilities.** The owner or operator of
34 a waste tire facility who does not seek a waste tire facility
35 permit or who does not qualify for permit by rule status shall

1 within 90 days after the effective date of this chapter close
2 the facility in compliance with part 9220.0500.

3 9220.0240 PERMIT BY RULE.

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

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

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

18 Subp. 2. **Eligibility for owners and operators of mobile
19 equipment.** The owners or operators of mobile shredding or
20 baling equipment are considered to have obtained a waste tire
21 facility permit if they submit the notice required under subpart
22 3 and if they comply with the following conditions:

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

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

28 Subp. 3. **Written notification.** To obtain permit by rule
29 status, the owners and operators of a qualifying waste tire
30 facility or mobile shredding or baling equipment shall submit
31 the following information to the chair. For an existing
32 facility, the notification must be submitted within 90 days of
33 the effective date of part 9220.0200. For a new facility and
34 for each new shredding or baling site, the notification must be
35 submitted 15 days before the operation begins. The notification

1 must contain:

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

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

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

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

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

14 **Subp. 4. Termination of eligibility for permit by rule.**

15 The board shall terminate the eligibility of owners and
16 operators of a facility for permit by rule status after notice
17 and opportunity for a contested case hearing if the board finds
18 that the facility does not qualify for permit by rule status or
19 that the facility should be permitted to protect human health or
20 the environment. When eligibility to be permitted under this
21 part has been terminated, the owner and operator of the facility
22 must apply within 60 days for a waste tire facility permit or
23 close the facility in compliance with part 9220.0490 and the
24 applicable requirements of part 9220.0500.

25 9220.0250 DESIGNATION OF PERMITTEE.

26 The board shall designate all owners and operators of the
27 waste tire facility as co-permittees when issuing a waste tire
28 facility permit.

29 9220.0260 WASTE TIRE FACILITY PERMIT APPLICATION PROCEDURES.

30 **Subpart 1. Form.** The application for a waste tire
31 facility permit consists of a general application that includes
32 the appropriate supporting documents, map, and additional
33 application information specific to the facility that is the
34 subject of the application. The content requirements of the
35 general permit application are set forth in part 9220.0270. The

1 additional application information requirements specific to the
2 facility type are set forth in parts 9220.0280 to 9220.0310, and
3 must be submitted with the permit application.

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

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

10 A. For a waste tire processing or storage facility, a
11 person shall submit a permit application at least 180 days
12 before the planned date of facility construction for a new
13 facility or for an existing facility no later than 90 days after
14 the effective date of this chapter.

15 B. For a waste tire transfer facility, a person shall
16 submit a permit application at least 90 days before the planned
17 date of facility construction for a new facility or for an
18 existing facility no later than 90 days after the effective date
19 of this chapter.

20 Subp. 4. **Renewal of existing permit.** A written
21 application for renewal of an existing permit must be submitted
22 90 days before the expiration date of the existing permit.

23 9220.0270 WRITTEN APPLICATION.

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

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

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

1 entity;

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

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

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

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

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

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

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

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

23 F. the location of the facility and whether that
24 location complies with the restrictions established in part
25 9220.0450, subpart 2;

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

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

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

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

36 Subp. 4. **Map required.** The application must include a

1 topographic or section map using a scale of no less than one
2 inch equals 200 feet. This map must show the waste tire
3 facility and surrounding area for one quarter mile in detail.
4 At a minimum, the map must show the following:

5 A. the map scale and directions;

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

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

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

13 E. occupied dwellings;

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

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

19 H. loading and unloading areas;

20 I. access and internal roads;

21 J. run-off control measures, ditches, and dikes; and

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

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

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

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

35 Subp. 8. **Other information.** The applicant shall submit
36 other information relevant to the application as requested by

1 the chair or as required by parts 9220.0280 to 9220.0310.

2 9220.0280 ADDITIONAL APPLICATION INFORMATION REQUIRED FOR WASTE
3 TIRE TRANSFER FACILITIES.

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

7 A. a description of the types of vehicles that the
8 facility will service;

9 B. information on how the accumulation of waste tires
10 at the transfer facility will be controlled so that no more than
11 10,000 passenger tires or the equivalent weight of other waste
12 tires will be present at the transfer facility at any time; and

13 C. information on the type, size, and capacity of
14 storage that will be present at the facility, designating drop
15 boxes, containers, trailers, or stockpiles.

16 9220.0290 ADDITIONAL APPLICATION INFORMATION REQUIRED FOR WASTE
17 TIRE PROCESSING FACILITIES.

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

21 A. the maximum quantity and type of tire-derived
22 products and residuals from processing to be stored on the site
23 at any time, specifying the quantity and type of tire-derived
24 products and residuals from processing stored on the site
25 currently and how they are being stored;

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

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

30 D. a description of how the facility will comply with
31 the 75 percent annual processing requirement of part 9220.0470,
32 subpart 2;

33 E. a description of how residuals from processing
34 will be disposed of;

35 F. the existing and proposed markets for the

1 facility's tire-derived products; and

2 G. a copy of the emergency preparedness manual
3 required by part 9220.0470, subpart 4.

4 9220.0300 ADDITIONAL APPLICATION INFORMATION REQUIRED FOR WASTE
5 TIRE STORAGE FACILITIES.

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

9 A. the procedures that will be used at the facility
10 to minimize or prevent mosquito and rodent breeding in the waste
11 tire stockpiles;

12 B. a copy of the emergency preparedness manual
13 required by part 9220.0270, subpart 4; and

14 C. information on how the accumulation of waste tires
15 at the waste tire storage facility will be controlled so that no
16 more than 500,000 passenger tires or the equivalent weight of
17 other waste tires are ever stored at the facility.

18 9220.0310 SIGNATURES.

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

25 9220.0320 PROVISIONAL STATUS.

26 Subpart 1. **Scope.** When the owner of a waste tire facility
27 submits a permit application, the facility is considered
28 provisionally permitted. Provisionally permitted facilities
29 must conform to the requirements and standards described in part
30 9220.0450, except that the annual report required by part
31 9220.0450, subpart 4, is not required while the waste tire
32 facility has provisional status.

33 Subp. 2. **Termination of provisional status by permitting,**
34 **closure, or denial of permit.** Provisional status terminates

1 when a permit is issued, when the chair verifies that closure is
2 complete, or when the board denies a permit.

3 9220.0330 REVIEW OF PERMIT APPLICATIONS.

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

11 9220.0340 PUBLIC NOTICE.

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

16 Subp. 2. **Public notice contents.** The chair shall prepare
17 and issue a public notice of an intended board action. The
18 public notice must include, at a minimum:

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

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

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

27 D. a statement of the action the chair intends to
28 request the board to take;

29 E. for action involving the issuance or renewal of
30 permits, the duration of the permit that the chair intends to
31 request the board to issue or renew;

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

35 G. a brief description of the procedures the board

1 will follow in reaching a decision on the chair's intended
2 action, and the procedures to be followed for requesting a
3 public information meeting or contested case hearing.

4 Subp. 3. Duration of notice period. Unless extended by
5 the chair, the public notice period is 30 days.

6 Subp. 4. Distribution of public notice. The chair shall
7 distribute the public notice in the following manner:

8 A. A copy of the public notice must be available at
9 the board office.

10 B. A copy must be mailed to the applicant.

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

13 D. Copies must be circulated in the geographic area
14 within a 45-mile radius of the planned or existing facility.

15 The chair shall circulate the public notice in one or more of
16 the following ways:

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

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

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

25 9220.0350 PUBLIC COMMENTS.

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

31 A. a statement of the person's interest in the action;

32 B. a statement of the action the person wishes the
33 board to take; and

34 C. the reasons why the person wants the board to take
35 the action.

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

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

11 9220.0360 PUBLIC INFORMATION MEETING.

12 Subpart 1. **Determination of need.** If the chair or the
13 board determines that a public information meeting would help
14 clarify and resolve issues regarding action on a permit, the
15 chair shall hold a public information meeting.

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

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

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

33 9220.0370 CONTESTED CASE HEARING.

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

1 A. that a person requesting the contested case
2 hearing has raised a material issue of fact or of the
3 application of facts to law related to the chair's proposed
4 action;

5 B. that the board has jurisdiction to make
6 determinations on the issues of fact or of the application of
7 facts to law raised by the persons requesting the contested case
8 hearing;

9 C. that the record before the board is not adequate
10 to allow the board to resolve a material issue of fact or of the
11 application of fact to law raised by the person requesting the
12 hearing, and that a contested case hearing would result in the
13 creation of a record that would allow the board to resolve the
14 issues raised; and

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

17 Subp. 2. **Hearing notice and order.** If the board decides
18 to hold a contested case hearing, the chair shall prepare a
19 notice of and order for hearing. The notice of and order for
20 hearing must contain:

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

23 B. a reference to the public notice of the board
24 action and the date of issuance of the public notice;

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

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

31 9220.0380 FINAL DETERMINATION.

32 Subpart 1. **Board action.** The board shall issue, renew, or
33 modify a permit if it determines that the proposed permittees
34 will comply with all permit conditions and applicable state or
35 federal statutes and rules, or will undertake a schedule of

1 compliance that will result in the facility being operated in
2 compliance with state or federal statutes and rules.

3 Subp. 2. **Denial of permit.** The board shall refuse to
4 issue a new permit or to modify or renew an existing permit if
5 it finds:

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

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

14 C. that the permittee has failed to disclose fully
15 all facts relevant to the facility to be permitted, or that the
16 permittee has submitted false or misleading information to the
17 board or to the chair;

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

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

24 9220.0390 TERMS AND CONDITIONS OF PERMITS.

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

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

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

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

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

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

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

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

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

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

1 immediately notify the chair.

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

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

14 9220.0400 CONTINUATION OF EXPIRED PERMIT.

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

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

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

25 9220.0410 MODIFICATION OR TRANSFER OF PERMIT.

26 Subpart 1. **Modification.** The chair shall modify a permit
27 if the modification is needed to reflect changed state or
28 federal statutes or rules applicable to the facility, to
29 incorporate changes in a facility closure plan or emergency
30 response manual, or to make other modifications consented to by
31 the permittees. The procedures for giving public notice
32 established in part 9220.0340 do not apply to permits modified
33 by the chair under this subpart if the chair finds that the
34 modification would not result in a significant change in
35 facility operation. For all other modifications, the chair

1 shall follow the public notice procedures of part 9220.0340, and
2 the board shall determine whether the permit should be modified.

3 Subp. 2. **Change in facility ownership or operation.**

4 The following conditions apply to the change in facility
5 ownership or operation.

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

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

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

26 9220.0420 REVOCATION OF PERMIT.

27 Subpart 1. **Justification for revocation.** The following
28 constitute justification for the chair to begin proceedings to
29 revoke a permit:

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

34 B. the operation of the facility has terminated; or

35 C. the chair finds that the facility endangers human

1 health or the environment and that the danger cannot be removed
2 by a modification of the permit.

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

11 9220.0430 INTERACTION OF PERMIT AND ABATEMENT RULES.

12 If a tire collector wishes to obtain a board permit for a
13 site that is the subject of an abatement action, the tire
14 collector shall notify the chair of this intent within 90 days
15 of the effective date of part 9220.0200 or at the time the
16 abatement plan is submitted and agree to develop a plan for
17 bringing the site into compliance with the technical rules for
18 waste tire transfer, processing, or storage facilities.
19 Notification and agreement under this part does not exempt the
20 owner or operator of a facility that is the subject of an
21 abatement action from the duty to obtain a permit by following
22 the procedures in parts 9220.0260 to 9220.0310 for activities
23 other than the abatement action.

24 WASTE TIRE FACILITY STANDARDS

25 9220.0440 RULE CONFLICTS.

26 Nothing in parts 9220.0440 to 9220.0680 relieves any person
27 from obligations or duties imposed by other laws, statutes,
28 rules, standards, or ordinances of the federal, state, or local
29 governments or any agency thereof now in effect or that become
30 effective in the future. In the event parts 9220.0440 to
31 9220.0680 conflict with any of those laws, statutes, rules,
32 standards, or ordinances, the more stringent provisions apply.

33 9220.0450 GENERAL STANDARDS FOR PERMITTED FACILITIES.

34 Subpart 1. Scope. All permitted waste tire facilities

1 must comply with the technical and operational standards in this
2 part. In addition, each permitted facility must comply with
3 requirements specific to the operation conducted at the facility
4 and any special conditions as specified in parts 9220.0460 to
5 9220.0480 established in a permit.

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

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

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

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

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

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

26 E. Waste tires stored indoors must be stored under
27 conditions that meet or exceed those in the current edition of
28 The Standard for Storage of Rubber Tires, National Fire
29 Protection Association (NFPA) 231D, written by the NFPA
30 Committee on Standards for Rubber Tires, published by the NFPA
31 Standards Council. This publication is available at the
32 Minnesota State Law Library, Ford Building, 117 University
33 Avenue, Saint Paul, Minnesota; the Office of Public Safety, Fire
34 Marshal Division; or any local fire department. This
35 publication is incorporated by reference and is not subject to
36 frequent change.

1 F. No waste tire pile must have an area greater than
2 10,000 square feet or a vertical height greater than 20 feet.

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

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

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

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

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

16 B. the year covered by the report;

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

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

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

26 F. for all waste tires and tire-derived products
27 shipped from the facility, the name and waste tire transporter
28 identification number of the transporter who accepted the waste
29 tires or tire-derived products for transport, and the quantity
30 of waste tires or volume of tire-derived products shipped with
31 that transporter; and if the waste tires were shipped with a
32 person who is not a waste tire transporter, the number of tires
33 shipped, the person's name and telephone number, and the place
34 where the tires were deposited;

35 G. for all waste tires and tire-derived products
36 received at the facility, the name and waste tire transporter

1 identification number of the transporter who delivered the waste
2 tires or tire-derived products to the facility, and the quantity
3 of waste tires or volume of tire-derived products received from
4 that transporter; and if the waste tires were delivered by a
5 person who is not a waste tire transporter, the number of tires
6 delivered and the person's name and telephone number;

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

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

12 9220.0460 WASTE TIRE TRANSFER FACILITY STORAGE LIMITATION.

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

19 9220.0470 ADDITIONAL STANDARDS FOR WASTE TIRE PROCESSING
20 FACILITIES.

21 Subpart 1. **Scope.** This part sets out the additional
22 standards that apply to the operation of a permitted waste tire
23 processing facility in addition to the general standards in part
24 9220.0450. To qualify for regulation as a waste tire processing
25 facility, the standards in part 9220.0450 must be met.

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

1 the facility during the year.

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

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

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

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

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

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

28 E. additional relevant information.

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

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

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

12 9220.0480 ADDITIONAL STANDARDS FOR WASTE TIRE STORAGE FACILITIES.

13 Subpart 1. **Scope.** This part sets out the standards that
14 apply to the operation of a permitted waste tire storage
15 facility in addition to the general standards in part
16 9220.0450. A waste tire facility that cannot qualify for
17 regulation as a waste tire transfer facility or as a waste tire
18 processing facility must comply with the standards in this part.

19 Subp. 2. **Emergency preparedness standards.** Waste tire
20 storage facilities must comply with the emergency preparedness
21 standards for waste tire processing facilities in part
22 9220.0470, subparts 3 to 6.

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

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

35 Subp. 5. **Removal of soil contaminated with pyrethrin**

1 pyrolytic oil. If ~~pyrolytic~~ pyrolytic oil is released at the
2 waste tire facility, the permittee shall remove contaminated
3 soil in accordance with any applicable rules governing the
4 removal, transportation, and disposal of the material.

5 9220.0490 CLOSURE.

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

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

12 B. the owner or operator fails to maintain adequate
13 financial assurance;

14 C. the board permit for a facility expires and
15 renewal of the permit is not applied for, or is applied for and
16 denied;

17 D. the board permit for the facility is revoked;

18 E. a board order to cease operations is issued;

19 F. a board stipulation agreement specifies closure is
20 to begin; or

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

24 Subp. 2. **Submittal of closure plan.** The owner or operator
25 of a waste tire facility shall submit to the chair a closure
26 plan with the permit application, or as required by an order or
27 stipulation agreement. The chair shall approve the closure plan
28 as part of the permit issuance procedure or as part of a
29 submittal required by a stipulation agreement or order.
30 Compliance with the approved closure plan must be made a
31 condition of any permit, order, or stipulation agreement. No
32 closure plan shall be approved unless the closure plan is
33 consistent with this part and the applicable closure
34 requirements of part 9220.0500.

35 Subp. 3. **Contents of closure plan.** The closure plan must

1 include:

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

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

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

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

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

22 9220.0500 CLOSURE PROCEDURES.

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

27 Subp. 2. **Closure procedures.** If the conditions of part
28 9220.0490, subpart 1, exist, the owner or operator shall:

29 A. close public access to the facility;

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

33 C. notify the board, local units of government, local
34 land use authorities, and fire and health authorities of the
35 closing of the facility;

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

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

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

6 G. notify the chair when the closure activities are
7 completed.

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

13 Subp. 4. **Certification of closure.** After receiving
14 certification from the owner or operator of the facility that
15 the closure procedures have been completed in accordance with
16 subpart 2, the chair shall inspect the facility site. If all
17 procedures have been correctly completed, the chair shall verify
18 that the facility has been closed in compliance with parts
19 9220.0440 to 9220.0500, and that all duties established by parts
20 9220.0440 to 9220.0500, and by the facility permit, have been
21 discharged.

22 9220.0510 PETITION PROCEDURES.

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

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

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

1 than 100 waste tires in a calendar year shall maintain a record
2 of the quantity and type of waste tires sent for disposal. For
3 shipments made under subpart 2, this record must also note the
4 name of the person transporting the waste tires, the
5 identification number of the waste tire transporter, if
6 applicable, and the date of the transaction. For persons who
7 transport their own waste tires for disposal, this record must
8 also note the date of shipment and the name of the waste tire
9 facility where the waste tires were delivered. When requested
10 by the chair, the record must be made available for inspection.
11 The record must be retained for three years from the date of the
12 transaction.

13 9220.0530 WASTE TIRE TRANSPORTATION.

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

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

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

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

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

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

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

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

9 Subp. 3. **Board identification number required.** Except as
10 exempted by subpart 2, a person who transports waste tires must
11 obtain and display a waste tire transporter identification
12 number when transporting waste tires. The information that must
13 be submitted to the chair to obtain a board identification
14 number is specified in part 9220.0540. The board's issuance of
15 a waste tire transporter identification number does not release
16 the transporter from any liability, penalty, or duty imposed by
17 Minnesota or federal statutes or rules or local ordinances,
18 except the obligation to obtain the waste tire transporter
19 identification number.

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

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

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

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

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

32 Subp. 6. **Submittal of operating record.** Transporters
33 shall submit to the chair an operating record that identifies
34 the transporter by name and identification number, and that
35 summarizes the information accumulated under subpart 5 for the
36 three months preceding the month the record is to be submitted.

1 This record must be submitted April 10, July 10, October 10, and
2 January 10 of each year.

3 9220.0540 TRANSPORTER APPLICATION REQUIREMENTS.

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

7 Subp. 2. **Application.** To obtain a waste tire transporter
8 identification number and approval to transport waste tires, a
9 transporter shall submit a written application to the chair.
10 For a transporter currently transporting waste tires, the
11 application must be submitted not more than 60 days after the
12 effective date of this chapter. For a new transporter, the
13 application must be submitted 15 days before the transporter
14 begins transporting waste tires. The application must contain
15 the following information:

16 A. the name, address, and telephone number of the
17 person who will be transporting waste tires; and if a company
18 will be transporting waste tires, the name, address, and
19 telephone number of the officers of the company, along with an
20 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 or trailer or both vehicle and
24 trailer that will be used, the license number, and registered
25 vehicle owner;

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

31 FINANCIAL ASSURANCE REQUIREMENTS

32 9220.0550 SCOPE.

33 Parts 9220.0550 to 9220.0680 apply to owners and operators
34 of waste tire facilities, except those who are exempt from the
35 requirement to obtain a waste tire facility permit under part

1 9220.0230, subpart 2, or are permitted by rule under part
2 9220.0240.

3 9220.0560 FINANCIAL ASSURANCE REQUIRED.

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

10 9220.0570 COST ESTIMATE FOR CLOSURE.

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

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

24 9220.0580 SCHEDULE FOR ESTABLISHING FINANCIAL ASSURANCE.

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

29 Subp. 2. **Closure trust fund.** Waste tire facilities shall
30 make annual payments into a closure trust fund. The first
31 payment must be made six months after the date the waste tire
32 facility permit is issued by the board. Subsequent payments
33 must be made no later than 30 days after each anniversary date
34 of the first payment. The minimum amount of each payment must

1 be determined by the formula in part 9220.0610, subpart 5.
2 Evidence of the establishment of a closure trust fund must be
3 submitted with the permit application.

4 9220.0590 ADJUSTMENTS TO FINANCIAL ASSURANCE LEVEL.

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

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

13 9220.0600 COUNTY-HELD FINANCIAL ASSURANCE MECHANISM.

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

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

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

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

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

29 Subp. 3. **Action by chair.** In the event that the county
30 has failed to gain access to the funds available through the
31 financial assurance mechanism within 30 days of the owner's or
32 operator's failure to perform as specified in subpart 2, or if
33 the county has failed to use any funds obtained under subpart 2
34 to close the facility in compliance with the closure plan or
35 part 9220.0490, the chair shall be given access to the funds.

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

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

10 9220.0610 CLOSURE TRUST FUND.

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

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

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

32 Subp. 4. **Pay-in period.** The owner or operator shall make
33 annual payments into the trust fund over the period for which
34 the financial assurance is required, hereinafter called the
35 pay-in period. The pay-in period must equal five years or the

1 expected operating life of the facility, whichever is shorter.

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

$$10 \quad \text{next payment} = \frac{\text{CE} - \text{CV}}{Y}$$

11 where CE is the current closure cost estimate, CV is the current
12 value of the trust fund, and Y is the number of years remaining
13 in the pay-in period.
14

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

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

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

1 estimate covered by the trust fund.

2 Subp. 9. **Substitution of alternate financial assurance**
3 **mechanisms.** If an owner or operator substitutes other financial
4 assurance mechanisms as specified in parts 9220.0610 to
5 9220.0640 in place of all or part of the trust fund, the owner
6 or operator may submit a written request to the chair for
7 release of the amount in excess of the current closure cost
8 estimate covered by the trust fund.

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

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

22 A. make the required payment;

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

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

28 Subp. 12. **Reimbursement.** After beginning closure of the
29 waste tire facility, an owner, operator, or other person
30 authorized to perform closure may request reimbursement from the
31 trust fund for completed closure expenditures by submitting
32 itemized bills to the chair. Within 60 days after receiving
33 bills for completed closure activities, the chair shall
34 determine whether the closure activities were in accordance with
35 the closure plan or otherwise needed to ensure proper closure,
36 and if so, the chair shall instruct the trustee to make

1 reimbursement in the amount the chair specifies in writing. If
2 the chair has reason to believe that the cost of closure will be
3 significantly greater than the value of the trust fund, the
4 chair may withhold reimbursement until it is determined, under
5 part 9220.0670, that the owner or operator is no longer required
6 to maintain financial assurance for closure.

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

9 A. an owner or operator substitutes alternate
10 financial assurance as specified in parts 9220.0610 to
11 9220.0670; or

12 B. the chair releases the owner or operator from the
13 requirements of this part under part 9220.0670.

14 9220.0620 SURETY BOND GUARANTEEING PAYMENT INTO A STANDBY TRUST
15 FUND.

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

21 Subp. 2. **Surety bond requirements.** An owner or operator
22 may satisfy the requirements of part 9220.0560 by obtaining a
23 surety bond that conforms to the requirements of subparts 2 to
24 10 and by submitting the bond to the chair. The surety company
25 issuing the bond must be among those listed as acceptable
26 sureties on federal bonds in Circular 570, issued by the United
27 States Department of the Treasury, as published annually in the
28 Federal Register on July 1.

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

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

12 A. payments into the trust fund as specified in part
13 9220.0610;

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

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

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

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

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

25 B. pay into the standby trust fund an amount equal to
26 the penal sum within 15 days after an order to close the
27 facility is issued by the chair, the board, or court of
28 competent jurisdiction; or

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

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

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

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

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

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

27 A. an owner or operator substitutes alternate
28 financial assurance as specified in parts 9220.0610 to
29 9220.0640; or

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

32 9220.0630 LETTER OF CREDIT.

33 Subpart 1. **Scope.** Subparts 2 to 11 apply to letters of
34 credit. For letters of credit held by a county under part
35 9220.0600, provisions in this part that refer to the chair apply

1 to both the chair and the county.

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

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

20 Subp. 4. **Establishment of standby trust fund.** An owner or
21 operator who uses a letter of credit to satisfy the requirements
22 of part 9220.0560 shall also establish a standby trust fund.
23 Under the terms of the letter of credit, the issuing institution
24 shall deposit all amounts paid directly into the standby trust
25 fund in accordance with instructions from the chair. An
26 originally-signed duplicate of the standby trust fund agreement
27 must be submitted to the chair with the letter of credit. The
28 standby trust fund agreement must meet the requirements in part
29 9220.0610, except that compliance with the following is not
30 required until the standby trust fund is funded under this part:

31 A. payments into the trust fund as specified in part
32 9220.0610;

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

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

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

3 Subp. 5. **Notification.** The letter of credit must be
4 irrevocable and issued for a period of at least one year. The
5 letter of credit must provide that the expiration date will be
6 extended automatically for a period of at least one year unless,
7 at least 120 days before the current expiration date, the
8 issuing institution notifies both the owner or operator and the
9 chair by certified mail of a decision not to extend the
10 expiration date. Under the terms of the letter of credit, the
11 120 days must begin on the date when the chair received the
12 notice, as evidenced by the return receipt. For a letter of
13 credit held by a county under part 9220.0600, the letter of
14 credit must provide a 150-day expiration period rather than a
15 120-day period.

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

19 Subp. 7. **Changes to amount of credit.** Within 60 days of
20 an increase in the current closure cost estimate to an amount
21 greater than the amount of the credit, the owner or operator
22 shall either cause the amount of the credit to be increased to
23 an amount at least equal to the sum of the current closure cost
24 estimate and submit evidence of the increase to the chair, or
25 obtain other financial assurance as specified in parts 9220.0610
26 to 9220.0640 to cover the increase. Whenever the current
27 closure cost estimate decreases, the amount of the credit may be
28 reduced to the sum of the current closure cost estimate
29 following written approval by the chair.

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

35 Subp. 9. **Failure to establish alternate financial**
36 **assurance.** The chair shall draw on the letter of credit if the

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

13 Subp. 10. **Termination of letter of credit.** The chair
14 shall return the letter of credit to the issuing institution for
15 termination if:

16 A. an owner or operator substitutes alternate
17 financial assurance as specified in parts 9220.0610 to
18 9220.0640; or

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

21 9220.0640 SURETY BOND GUARANTEEING PERFORMANCE OF CLOSURE FOR
22 PERMITTED FACILITIES.

23 Subpart 1. **Scope.** Subparts 2 to 11 apply to surety bonds
24 that guarantee performance of closure. Surety bonds that
25 guarantee performance of closure can only be used for permitted
26 facilities with approved closure plans. For surety bonds held
27 by a county under part 9220.0600, provisions in this part that
28 refer to the chair apply to both the chair and the county.

29 Subp. 2. **Surety bond requirements.** An owner or operator
30 may satisfy the requirements of part 9220.0560 by obtaining a
31 surety bond that conforms to the requirements of subparts 2 to
32 11 and by submitting the bond to the chair. The surety company
33 issuing the bond must be among those listed as acceptable
34 sureties on federal bonds in Circular 570, issued by the United
35 States Department of the Treasury, as published annually in the

1 Federal Register on July 1. The owner or operator of a waste
2 tire facility shall submit the bond to the chair with the permit
3 application.

4 Subp. 3. **Wording of performance bond.** The chair shall
5 approve the form of a surety bond guaranteeing performance of
6 closure that contains terms adequate to ensure that financial
7 assurance is provided. The chair shall provide a copy of the
8 approved performance bond instrument with the permit application
9 forms. The owner or operator of the waste tire facility shall
10 use the form provided by the chair when establishing a surety
11 bond guaranteeing performance of closure financial assurance
12 mechanism.

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

24 A. payments into the trust fund as specified in part
25 9220.0610;

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

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

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

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

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

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

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

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

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

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

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

34 A. an owner or operator substitutes alternate
35 financial assurance as specified in parts 9220.0610 to
36 9220.0640; or

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

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

7 9220.0650 USE OF MULTIPLE FINANCIAL ASSURANCE MECHANISMS.

8 An owner or operator may satisfy the requirements of part
9 9220.0560 by establishing more than one financial assurance
10 mechanism per waste tire facility. These mechanisms are limited
11 to trust funds, surety bonds guaranteeing payment into a trust
12 fund, and letters of credit. The mechanisms must be established
13 as specified in parts 9220.0610, 9220.0620, and 9220.0630,
14 except that it is the combination of mechanisms, rather than a
15 single mechanism, that must provide financial assurance at least
16 equal to the sum of the current closure cost estimate. If an
17 owner or operator uses a trust fund in combination with a surety
18 bond or letter of credit, the owner or operator may use the
19 trust fund as the standby trust fund for the other mechanisms.
20 A single standby trust fund may be established for two or more
21 mechanisms. The chair may use any or all of the financial
22 assurance mechanisms to provide for closure of the facility.

23 9220.0660 USE OF FINANCIAL ASSURANCE MECHANISMS FOR MULTIPLE
24 WASTE TIRE FACILITIES.

25 An owner or operator may use a financial assurance
26 mechanism specified in parts 9220.0610 to 9220.0640 to meet the
27 requirements of part 9220.0560 for more than one waste tire
28 facility. Evidence of financial assurance submitted to the
29 chair must include a list showing, for each facility, the name,
30 address, and the amount of funds for closure assured by the
31 mechanism. The amount of funds available through the mechanism
32 must be no less than the sum of funds that would be available if
33 a separate mechanism had been established and maintained for
34 each facility. When directing disbursement of funds for closure
35 at any of the facilities covered by the mechanism, the chair

1 shall direct that only the amount of funds designated for that
 2 facility be disbursed unless otherwise agreed to by the owner or
 3 operator.

4 9220.0670 RELEASE OF OWNER OR OPERATOR FROM FINANCIAL ASSURANCE
 5 REQUIREMENTS.

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

12 9220.0680 INCAPACITY OF OWNERS OR OPERATORS, GUARANTORS, OR
 13 FINANCIAL INSTITUTIONS.

14 Subpart 1. **Notification of bankruptcy.** An owner or
 15 operator shall notify the chair by certified mail of the
 16 commencement of a voluntary or involuntary proceeding under
 17 United States Code, title II, Bankruptcy, naming the owner or
 18 operator as a debtor, within ten days after commencement of the
 19 proceeding.

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

30

31 REPEALER. Minnesota Rules, parts 7001.4000; 7001.4010;
 32 7001.4020; 7001.4030; 7001.4035; 7001.4040; 7001.4050;
 33 7001.4060; 7001.4070; 7001.4080; 7001.4090; 7001.4100;
 34 7001.4110; 7001.4120; 7001.4130; 7001.4140; 7001.4150;
 35 7035.8200; 7035.8205; 7035.8210; 7035.8220; 7035.8230;

- 1 7035.8240; 7035.8250; 7035.8260; 7035.8270; 7035.8280;
- 2 7035.8290; 7035.8300; 7035.8400; 7035.8410; 7035.8420; 7035.8430;
- 3 7035.8440; 7035.8450; 7035.8460; 7035.8470; 7035.8480;
- 4 7035.8490; 7035.8500; 7035.8510; 7035.8520; 7035.8530;
- 5 7035.8540; 7035.8550; 7035.8560; 7035.8570; 7035.8580;
- 6 7035.8590; 7035.8700; and 7035.8710, are repealed.