

ILLINOIS POLLUTION CONTROL BOARD  
June 4, 2015

IN THE MATTER OF: )  
)  
MANAGEMENT OF USED AND WASTE ) R15-19  
TIRES: PROPOSED AMENDMENTS TO ) (Rulemaking - Land)  
35 ILL. ADM. CODE 848 )

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

Today the Board adopts, for second notice, rules intended to implement Public Act 98-656 by amending Part 848 of the Board's used and waste tires regulations. 415 ILCS 5/55.2(b-5) (2014); 35 Ill. Adm. Code 848. Public Act 98-656 directed the Illinois Environmental Protection Agency (Illinois EPA or Agency) to propose and the Board to adopt rules addressing issues including permitting and financial assurance applicable to used and waste tire handlers. 415 ILCS 5/55.2(b-5) (2014).

In an order dated January 8, 2015, the Board accepted the rulemaking proposal, filed by the Agency on December 22, 2014, for hearing and directed the hearing officer to proceed to hearing. Management of Used and Waste Tires: Proposed Amendments to 35 Ill. Adm. Code 848, R15-19, slip op. at 2 (Jan. 8, 2015). On February 5, 2015, the Board directed its clerk to publish the rule language for first notice in the *Illinois Register*. Management of Used and Waste Tires: Proposed Amendments to 35 Ill. Adm. Code 848, R15-19, slip op. at 2 (Feb. 5, 2015). Public hearings were held on March 5, 2015 in Springfield and on April 15, 2015 in Chicago.

In this opinion and order, the Board first provides the procedural history of this rulemaking and background information on the Agency's proposal. The opinion summarizes the Agency's proposal and addresses changes to that proposal resulting from the public notice and comment period, most notably the March 5 and April 15 public hearings. Finally, the order sets forth the proposed amendments to Part 848 for second notice review by the Joint Committee on Administrative Rules (JCAR).

**PROCEDURAL HISTORY**

The Illinois EPA filed this rulemaking proposal with the Board on December 22, 2014 pursuant to Sections 27, 28, and 55.2 of the Environmental Protection Act (Act) and Section 102.202 of the Board's procedural regulations. 415 ILCS 5/27, 28, 55.2 (2014); 35 Ill. Adm. Code 102.202. The proposal included the Illinois EPA's statement of reasons (SR) and synopsis of testimony along with the proposed rulemaking text (Proposal).

By letter dated January 20, 2015, the Board requested an economic impact study from the Department of Commerce and Economic Opportunity (DCEO) pursuant to Section 27 of the Act.

415 ILCS 5/27 (2014). On January 29, 2015, the Board received a letter from DCEO stating that DCEO is unable to undertake an economic impact study. In a February 5, 2015 order, the Board sent the proposed rule to first notice without commenting on the merits. Management of Used and Waste Tires: Proposed Amendments to 35 Ill. Adm. Code 848, R15-19 (Feb. 5, 2015).

The notice of proposed amendments was published in the *Illinois Register* on February 27, 2015. 39 Ill. Reg. 2,814 (Feb. 27, 2015). Public hearings were held on March 5, 2015 in Springfield and on April 15, 2015 in Chicago.

On February 18, 2015, the Illinois EPA pre-filed the testimony of Terry Gray (Gray Test.), Todd Marvel (Marvel Test.), and Brian White (White Test.). Mr. Gray is the president of TAG Resource Recovery, a consulting firm specializing in waste tire management issues. Mr. Gray was retained by the Illinois EPA to assist in the development of the rulemaking proposal. SR at 22. Mr. Marvel is the Manager of the used tire unit of the Illinois EPA Bureau of Land. SR at 21. Mr. Marvel submitted pre-filed testimony regarding the Illinois EPA outreach conducted prior to the rulemaking proposal. Marvel Test. at 3. In addition, Mr. Marvel submitted pre-filed testimony on the general policy of the rulemaking proposal. *Id.* at 4-6. Finally, Mr. White is the manager of the compliance unit in the waste reduction and compliance section of the Illinois EPA's Bureau of Land. White Test. at 1. Mr. White's pre-filed testimony was limited to the financial assurance provisions of the proposed rulemaking. White Test. 3-4.

On February 26, 2015, the hearing officer issued pre-filed questions (Ques.) in response to the Illinois EPA's pre-filed testimony. The only public comment received in this rulemaking prior to the March 5, 2015 public hearing was from JCAR. JCAR's comment was entered as an exhibit to the March 5, 2015 hearing and was considered by the Illinois EPA in its post-hearing comments. The transcript of the first hearing (Tr.) was published on the Board's website on March 10, 2015. Illinois EPA filed post-hearing comments (PC) on March 31, 2015. No pre-filed testimony was filed prior to the second hearing. The transcript of the second public hearing (Tr. 2) was published on the Board's website on April 20, 2015. Finally, on April 21, 2015, the hearing officer issued an order that closed the post-hearing comment period on May 5, 2015.

## **REGULATORY BACKGROUND**

Part 848 of the Board's regulations was last amended in 1998. Municipal Solid Waste Landfill (MSWLF) Rules; Amendments to 35 Ill. Adm. Code 811, 813, and 848, R98-9 (June 17, 1998). As indicated in the Illinois EPA's statement of reasons, there have been a number of tire fires since 1998 leading the Illinois General Assembly and the Illinois EPA to revisit the used and waste tire regulations. SR at 1; *see also* Tr. at 19. That document states, "[s]ome provisions in this proposal . . . are being submitted for the purpose of complying with Public Act 98-656, which, among other things, directs the Agency to propose certain revisions to the Part 848 rules." SR at 1-2.

As noted in the January 8 and February 5, 2015 Board orders, new Section 55.2(b-5) of the Act, the statute to be implemented by the proposed rulemaking, provides that,

[n]ot later than 6 months after the effective date of this amendatory Act of the 98th General Assembly, the Agency shall propose, and, not later than 9 months after receipt of the Agency's proposal, the Board shall adopt, revisions to the rules adopted under this Title that are necessary to conform those rules to the requirement of this Title. 415 ILCS 5/55.2(b-5) (2014).

On June 19, 2014, Public Act 98-656 became effective and made substantive amendments to Sections 55, 55.2, and 55.6 of the Act, including the language quoted above. 415 ILCS 5/55, 55.2, 55.6 (2014). Public Act 98-656 set the framework for the Illinois EPA's rulemaking proposal. It required owners and operators of tire storage sites containing "used tires totaling more than 10,000 passenger tire equivalents" or where "more than 500 tons of used tires are processed in a calendar year" to submit documentation demonstrating "compliance with Board rules adopted under this Title." 415 ILCS 5/55(d-4) (2014). Public Act 98-656 also prohibited those same sites from operating without an Illinois EPA permit or in violation of financial assurance rules. 415 ILCS 5/55(d-5), (d-6) (2014).

Since March 2005, the Illinois EPA has been conducting outreach on the rulemaking proposal. SR at 2. The most recent outreach occurred in November 2014, when the Illinois EPA received stakeholder feedback on five issues. First, the Illinois EPA received a comment that tire retreading facilities and persons transporting tires for the purpose of retreading should enjoy greater exemption from the requirements of the rule. In response, Illinois EPA proposed simplifying existing exemptions for certain tire retreading facilities as long as those facilities prevented water from accumulating in the used or waste tires and developed a contingency plan and an emergency response plan to address public health risks. SR at 3.

The second issue addressed by stakeholders in response to the November 2014 outreach involved statutory provisions that the Illinois EPA was unable to change without legislative action, such as statutory definitions. SR at 4. Third, a stakeholder commented that processed used tires should be exempted from some requirements of the rule so that the ability for tire-derived products to reach the market would not be hampered by the regulations. The Illinois EPA acknowledged the commenter's suggestion, but indicated that some used tires are processed simply to avoid being subject to regulation. Therefore, the Illinois EPA proposed amendments that exempt processed used tires in certain instances when the person seeking an exemption from the regulations can prove that there is a contract for the sale of the processed used tires. SR at 4-5.

The fourth issue raised by stakeholders during the November 2014 outreach was concerning vector (mosquito) control at used and waste tire sites. SR at 5. The Illinois EPA responded to this comment by indicating that the term "vector" is not used in Part 848 of the Board's regulations, but the proposed rulemaking addresses the threat of mosquitos at used and waste tire sites by preventing the accumulation of water in tires at facilities of a certain size. *Id.* Finally, the Illinois EPA received a comment regarding the maintenance of tire tracking receipts. SR at 6. The Illinois EPA responded to this comment by acknowledging the expense of maintaining tire tracking receipts, but also indicated that the proposed rulemaking retained tire

tracking receipts as an essential element of “identifying the sources of illegally dumped tires.” *Id.*

As mentioned above, the General Assembly provided a timeline for the Illinois EPA to propose and the Board to adopt rules implementing Public Act 98-656, including the permit program added at Section 55(d-5) of the Act and the financial assurance rules mentioned in Section 55(d-6) of the Act. 415 ILCS 5/55(d-5), (b-6) (2014); *see supra* at 2. Section 55.2(b-5) of the Act provides, “not later than 9 months after receipt of the Agency’s proposal, the Board shall adopt, revisions to the rules adopted under this Title.” 415 ILCS 5/55.2(b-5) (2014). The Board received the Illinois EPA’s proposal on December 22, 2014. Therefore, the Board must adopt rule language in this matter on or before September 22, 2015.

### **SUMMARY OF THE RULES PROPOSED FOR SECOND NOTICE**

The rules proposed today for second notice are designed to protect the public from the threats posed by the improper management of used and waste tires. SR at 1. The rules contain provisions mandated by Public Act 98-656, as well as provisions intended to “reflect lessons learned by the Agency in the 16 years” since Part 848 was last amended. *Id.* at 2.

In this section of the opinion, the Board summarizes the second-notice rules, section by section. The Board summarizes amendments proposed by Illinois EPA and describes any testimony or comment offered on each section of the rules since the Board’s first notice opinion and order. Finally, the Board explains any language changes made to the first-notice rule language. Where it is noted that no changes resulted from the public notice and comment period, the first-notice rule language is adopted by the Board for second notice.

#### **Subpart A: General**

##### **Applicability, Definitions, and Incorporation by Reference (Sections 848.101, 848.104, and 848.105)**

At first notice, Section 848.101 listed a number of exemptions from the regulations in Part 848. It exempted two-inch-minus chips and certain converted tires under a contract for purchase or other sale; new or reprocessed tires; altered reused tires that could not accumulate water; used tires at a site storing no more than 50 used tires at a time; used tires at a municipal landfill pursuant to an Illinois EPA solid waste permit; and sliced or shredded used tires stored at a site where they would be burned for fuel. The section also listed two statutory exemptions. Proposal at 3-4. The Agency emphasized that the exemptions for altered used tires under contract for sale were proposed to prevent used tire handlers from altering the tires for the purpose of skirting regulation. SR at 6-7. Other proposed changes to the section were due to moving existing regulatory provisions from Section 848.201. *Id.*

At the March 5 hearing, in response to a question about accumulations of two-inch-minus chips and the risk of two-inch-minus chips igniting, Mr. Marvel and Mr. Gray acknowledged the existence of accumulations and the risk of fire. Tr. at 19-20; PC at 2. Therefore, in its post-

hearing comments, the Illinois EPA proposed striking the exemption for two-inch-minus chips, instead proposing that two-inch-minus chips should be exempted from the financial assurance requirements of Part 848, rather than the entire part. PC at 2. The Board agrees with this change, and has included it in the second-notice rule language. The Illinois EPA's post-hearing comments also proposed modifying Section 848.101(g) in response to the Board's question regarding the use of the term "managed" in that subsection. Ques. at 3. In the post-hearing comments, the Agency proposed replacing the term "managed" with the term "accepted" so that the provision is consistent with Section 55 of the Act. PC at 3; 415 ILCS 5/55(b-1) (2014). That section of the Act provides that, "no owner or operator of a sanitary landfill shall *accept* any used or waste tire for final disposal; except that used or waste tires, when separated from other waste, may be *accepted* if . . ." 415 ILCS 5/55(b-1) (2014) (emphasis added). Section 55(b-1) of the Act goes on to restrict disposal of used or waste tires at a sanitary landfill. *Id.*; PC at 4. The Board agrees with the changes proposed by the Illinois EPA and incorporates those changes for second notice.

Finally, as a result of testimony at the March 5, 2015 hearing, the Illinois EPA proposes eliminating the exemption for shredded or sliced used or waste tires that appeared at proposed Section 848.101(h) at first notice. In post-hearing comments, Illinois EPA states that shredded or sliced used tires present a risk of fire, and therefore should be subject to the requirements of the entire Part 848. PC at 5. The Board agrees that shredded or sliced used tires also present a risk to the public health, and therefore includes these proposed changes in the second notice rule language.

Section 848.104 of the first-notice rulemaking contained new definitions, amended definitions, and definitions deleted from Part 848. Proposal at 4-9. Definitions of "agency," "firebreak," "fully enclosed container," "passenger tire equivalent," "tire retreading facility," "tire stamping and die cutting facility," "two-inch-minus chips," and "unit of local government" were included in the first-notice rule language. *Id.* The definition of "firebreak" was included as the outdoor equivalent of the existing "aisle." The definition of "passenger tire equivalent" sets the weight of an average-sized passenger tire at 22.5 pounds. Proposal at 6. As explained at the March 5, 2014 hearing, that is a change from 25 pounds found elsewhere in the current regulations. Tr. at 46-47.

At first notice, Section 848.104 included amendments to the definitions of several terms only to show statutory text in italics rather than all caps in the regulations. Proposal at 4-9. Those terms for which the Illinois EPA proposed more substantive amendments include "aisle," "retread" or "retreading," "tire storage site," "used tire," and "waste tire." *Id.* The definition of "aisle" is amended only to reflect the introduction of an outdoor equivalent, "firebreak," as described above. Proposal at 4; SR at 7. The definition of "tire disposal site" was inadvertently left out of the Board's first-notice opinion and order of February 5, 2015. This definition is in italics in the second-notice rule language to reflect that it is taken from the Act. *See* 415 ILCS 5/54.11 (2014). It appears in the second-notice rule language as proposed by the Illinois EPA at first notice. The definition of "tire storage site" and "used tire" are amended to reflect statutory changes. SR at 7-8. Finally, the definition of "waste tire" was amended to be more inclusive. SR at 8; Proposal at 9.

Section 848.104 of the first-notice rule language deletes the definitions of the terms “tire retreader”, “tire storage unit”, and “vector”. Proposal at 8-9. With the proposed first notice, these terms are no longer referenced in Part 848.<sup>1</sup> Section 848.105, entitled Incorporation by Reference, is made more brief at first notice by deleting four items no longer referred to, but adding a National Fire Protection Association standard referred to in Section 848.204 of the rules. SR at 8; Proposal at 22. The Board adopts the definitions proposed by Illinois EPA at first notice in today’s second-notice rule language.

### **Estimating the Weight of Used Tire Accumulations (Section 848.106)**

When only the volume of an accumulation of used or waste tires is known, rather than the weight of that accumulation, Section 848.106 provides a number of formulas using the cubic yards of the accumulation to calculate the weight of the accumulation. Proposal at 10; SR at 8. No changes were proposed to this section by the Illinois EPA following the hearings or opportunity for public comment.

## **Subpart B: Management Standards**

### **Applicability and Requirements (Sections 848.201 and 848.202)**

Subpart B of Part 848 provides how accumulations of used and waste tires must be managed, beginning with Section 848.201 which sets out the applicability of the management requirements. As proposed at first notice, the management standards would apply to “owners and operators of tire storage sites and . . . tire disposal sites.” The first-notice proposal exempted owners and operators of tire retreading and tire stamping and die cutting facilities if a specified number of tires were located on site at any one time. Proposal at 12; SR at 3.

As a result of discussion at the March 5, 2015 public hearing, the Illinois EPA suggested deleting the exemptions found in Sections 848.201(b) and 848.201(c), for owners and operators of tire retreading and tire stamping and die cutting facilities, making all owners and operators of any tire storage sites and . . . owners and operators of any tire disposal sites” subject to the management requirements of Subpart B. PC at 5. In the Illinois EPA’s post-hearing comments, it explains that tire retreading and tire stamping and die cutting facilities “can pose risks similar to those posed by used and waste tires stored at other facilities.” Post Comm at 5-6. In striking the proposed exemptions found in Sections 848.201(b) and 848.201(c), the Illinois EPA cites Mr. Marvel’s hearing testimony that the proposed management requirements are “standard industry practice, and hence, should not impose any significant monetary impact on the regulated facilities.” PC at 6. The Board agrees that tire retreading and tire stamping and die cutting facilities pose similar risks to other used tire storage facilities and adopts the Illinois EPA’s suggested changes for second notice.

---

<sup>1</sup> The Board notes that the Illinois EPA’s statement of reasons does not indicate that the proposal deletes the term “tire retreader,” but the proposal shows it as stricken, and all references to the term are also stricken in the proposal.

Section 848.202 provides the requirements for managing used and waste tires, many of which were new or changed at first notice. Proposal at 13-18. At first notice, for example, the Illinois EPA proposed deleting Section 848.202(a), that spelled out the applicability of management standards, because that section became obsolete with the applicability provisions added to Section 848.201. *Id.* at 13. Section 848.202(b) of the proposal sets out the site management requirements for those “sites at which more than 50 used or waste tires are located at any one time.” *Id.* The requirements include setting a size limit on accumulations of used or waste tires and mandating that accumulations are separated from one another and separated from other fuel sources in the case of a fire. *Id.* at 13-14; SR at 9-10. This section also requires treatment of used or waste tires so that water may not accumulate in the tires. Proposal at 14; SR at 10. Finally, Section 848.202(b) contains a new provision allowing acceptance of used or waste tires from unpermitted vehicles if specific information is collected from the vehicle and forwarded to the Illinois EPA. In its statement of reasons, the Illinois EPA explains that this provision is designed to “diminish the number of unregistered used tire haulers,” while not prohibiting the acceptance of tires from unpermitted vehicles. SR at 10. Prohibiting acceptance of those tires, on the other hand, would potentially “encourage the illegal dumping of tires.” *Id.*

Section 848.202(c) provides more stringent standards for sites at which more than 60 tons of used or waste tires are located. Proposal at 16. The 60 ton threshold is a change from existing regulations that contain additional requirements for sites containing 500 or more used or waste tires. SR at 10. The Illinois EPA proposes the change from a number to a weight threshold with the hope of achieving a “more uniform application of the regulations.” *Id.* Under the first-notice rule language, these larger sites must comply with additional sections of the rule, namely the contingency plan and emergency response requirements of Section 848.203 and the recordkeeping and reporting requirements of Subpart C of Part 848. Proposal at 16. These large sites also must develop and comply with a tire storage plan designed to ensure compliance with Section 848.202. *Id.*

Section 848.202(d) of the Illinois EPA’s proposal sets out additional requirements for even larger sites containing more than 125 tons of used or waste tires at any one time. Proposal at 17. Again, this reflects a change from requirements based on a number of tires rather than weight. *Id.*; SR at 10-11. This subsection mandates that tires not stored in a building or fully enclosed container must be protected by a fence, a controlled entrance, and an earthen berm. Access to the outdoor tire accumulations must be provided over the earthen berm, to control runoff, and a stabilized roadway must be provided for firefighting purposes. Proposal at 17-18; SR at 11. In addition, Section 848.202(d), as proposed, sets a required setback for tire accumulations from high-voltage power lines and mandates a firebreak between groups of storage piles at these largest of used or waste tire storage sites. Proposal at 18; SR at 11. In order to address comments raised by the Board at the March 5, 2015 hearing, the Agency changed the format of Section 848.202(d)(1)(C) to separate and clarify the requirements of the earthen berm. PC at 8. The Board finds the suggested clarifications beneficial to the rule, and adopts them for second notice.

### **Contingency Planning and Emergency Response (Section 848.203)**

Section 848.203 of the Illinois EPA's proposal contains the contingency plan and emergency response requirements for sites containing 60 tons of used or waste tires or more. Proposal at 18; SR at 11. Subsection (a) describes the required contents of the contingency plan, including: actions to minimize hazards resulting from fire runoff; actions of site personnel in the case of fire; evacuation procedures; an up-to-date list of emergency equipment; and designating a site employee as the primary emergency coordinator. Proposal at 18-19. The proposal provides that that contingency plan must be carried out immediately when a fire occurs at the site. *Id.* at 18. Section 848.203 also demands that used or waste tire sites maintain emergency equipment, designate a primary emergency coordinator, submit the contingency plan to the local fire department, maintain the contingency plan at the site, and review the contingency plan in the event of a fire or changes at the site. Proposal at 19-20; SR at 11. Finally, the proposed section requires that the Illinois EPA be notified immediately of any fire at a used or waste tire storage site followed by the submission of an incident report. Proposal at 20.

Changes to Section 848.203 that resulted from the public notice and hearing process are all related to the contingency plan providing for precautions against disease spreading mosquitoes. PC at 8-9. In the rulemaking proposal, the Illinois EPA had eliminated language from the existing rule that provided for these precautions in the contingency plan. This action was taken, and included in the first-notice rule language, because "IEPA's proposed amendments to Part 848 require the management of used and waste tires in a manner that would eliminate such risks." PC at 8; Proposal at 8-9. In pre-filed questions to the March 5, 2015 hearing, the Board asked the Illinois EPA to explain the proposed change because non-compliance with the rule is one of the situations the contingency plan is intended to address. Ques. at 4; Tr. at 56. In response, the Illinois EPA reinstated the language incorporating precautions against mosquitos and other disease vectors into the contingency plan. Post Comm 8-9. The Board agrees with including the precautions against mosquitos and disease vectors in the contingency plan and incorporates them into the rule language for second notice.

### **Storage of Tires Within Buildings (Section 848.204)**

Section 848.204 provides for storing used or waste tires within buildings. 35 Ill. Adm. Code 848.204. The Illinois EPA's first-notice proposal made some non-substantive changes to this section of the regulations, but it also changes the threshold for heightened precautions for indoor storage from 500 tires to "more than 60 tons," makes the local fire department the only option for consultation on a tire storage plan, and requires the tire storage plan to be available, on-site at all times. Proposal at 21; SR at 11-12. No substantive changes were made to this section as a result of the public notice and comment period. At the Board's request, however, the Illinois EPA eliminated a statement in Section 848.204(c)(4) that qualified when a National Fire Protection Association standard would apply. PC at 9-10. The Board agrees with the language change and includes it in the second-notice rule language.

### **Pesticide Treatment (Section 848.205)**

First notice changes proposed to Section 848.205 were not substantive, but rather: (1) eliminated a notification to the Illinois EPA, within 10 days of each pesticide application; (2) eliminated a reference to Title XIV of the Act, because Title XIV of the Act does not authorize pesticide use; and (3) clarified contact information where used or waste tire sites may obtain information regarding the Illinois Pesticide Act. Proposal at 22-23; SR at 12. No changes were made to this section as a result of the public notice and comment period.

### **Exemptions for Tire Retreading, Tire Stamping and Die Cutting Facilities and Sites with a Tire Removal Agreement (Repeal of Sections 848.206, 848.207, and 848.208)**

The Illinois EPA proposed repealing these three sections of the existing regulations. With the first-notice proposal, these exemptions were moved to other sections of the Board's regulations. SR at 12-13.

## **Subpart C: Recordkeeping and Reporting**

### **Applicability (Section 848.301)**

Section 848.301 provides which used or waste tire sites are required to comply with recordkeeping and reporting requirements before specifically exempting two types of sites from the requirements. Proposal at 31-32; SR at 13. First, the first-notice proposal makes tire storage and tire disposal sites at which more than 60 tons of used or waste tires are located at any one time subject to the recordkeeping and reporting requirements of the subsequent sections. Proposal at 31. Next, proposed Section 848.301(b) and (c) include two levels of exemptions for tire retreading and tire stamping and die cutting sites of specified sizes. Subsection (b) exempts facilities with fewer than 10,000 but more than 5,000 used or waste tires on site, that have a contingency plan in place and prevent water from accumulating in the tires from recordkeeping requirements. SR at 13; Proposal at 31-32. Subsection (c) exempts sites with 5,000 or fewer used or waste tires that prevent water from accumulating in the tires from the recordkeeping requirements. Proposal at 32.

In post hearing comments to the March 5, 2015 hearing, Illinois EPA eliminated the exemptions for tire retreading facilities to reflect industry practice of using a bill of lading for retreaded tires rather than tire tracking receipts. PC at 10-11. The Board agrees with the change suggested by Illinois EPA. Therefore, the second-notice Section 848.301(b) exempts all tire retreading facilities from recordkeeping and reporting and Section 848.301(c) is deleted from the second-notice proposal. *Id.*

### **Records, Daily Tire Record, and Annual Tire Summary (Sections 848.302, 848.303, and 848.304)**

As proposed at first notice, Section 848.302 requires that owners and operators must keep: (1) a daily tire record; (2) an annual tire summary; and (3) tire tracking receipts, all on

forms prescribed by the Illinois EPA. Proposal at 32. Section 848.303 describes what must be included in the Daily Tire Record. Proposal at 32-34; SR at 14. This includes information about tire transporters who brought tires onto and those who took tires from the site, proposed in Section 848.303(b). Information about the tires burned or combusted and tires remaining at the site at the end of the day is also required by this subsection of the proposal. Proposal at 33. The first-notice proposal deleted provisions that have been moved to other sections of the regulation with this rulemaking. Proposed Section 848.303(c) provided two ways in which the information required by Section 848.303 could be collected and recorded over the course of the day. Proposal at 34.

In the post-hearing comments, the Illinois EPA made nonsubstantive changes to Section 848.303(a) to reflect that Illinois EPA does not plan to provide a form for the Daily Tire Record. PC at 11. In response to Board comments at the March 5, 2015 hearing, Illinois EPA also proposed a more succinct Section 848.303(c), simply requiring the Daily Tire Record to be complete by the end of the day. PC at 12. The Board agrees with Illinois EPA's proposed, nonsubstantive changes, and adopts those changes for second notice.

First notice proposed changes to Section 848.304 include requiring a standardized form for the Annual Tire Summary submitted to the Agency and changing the reporting of tires from volume to weight. Proposal 34-35; SR at 14. No changes resulted to this section from the public notice period or public hearing.

### **Tire Tracking Receipts, Certification, and Retention of Records (Sections 848.305, 848.306, 848.307)**

Section 848.305 of the Illinois EPA's first-notice proposal provides the requirements for creating and maintenance of tire tracking receipts. Section 848.305 requires that the owner or operator of a site create a tire tracking receipt upon receiving used or waste tires. The owner or operator must provide a copy of the receipt to the person who delivered the used or waste tires, and retain a copy of the receipt. Subsection (a) also provides all the information that a receipt must contain. Proposal at 35. Subsection (b) sets out reciprocal requirements for a tire transporter who takes used or waste tires from a site. *Id.* The proposed Section 848.305 concludes with subsections (c) and (d) requiring that owners and operators maintain a record of the receipts on site and finally that tire tracking receipts be on a form prescribed by the Illinois EPA. Proposal at 35-36; SR at 15. The Illinois EPA suggested no changes to the proposal after the March 5, 2015 public hearing.

Section 848.306, as proposed at first notice, sets out the certification for any person submitting a document to the Illinois EPA under Part 848. Proposal at 36. The Illinois EPA proposed adding language to the certification that it is in the person's "duties in the regular course of business" to prepare the submitted form. *Id.*; SR at 15. Section 848.307 of the first-notice proposal houses the requirement that records be maintained for three years, moved from Section 848.305 of the existing regulations. No changes to these two proposed sections resulted from the March 5, 2015 public hearing.

## **Subpart D: Financial Assurance**

### **Scope and Applicability (Section 848.400)**

In Section 848.400, as proposed at first notice, the Illinois EPA first sets out who must provide financial assurance, then exempts other owners and operators from the financial assurance requirements. The Illinois EPA proposed combining Section 848.400(a) with Section 848.400(b) to make the financial assurance requirements generally applicable to owners and operators of tire storage and tire disposal sites. Proposal at 37; SR at 15. In post hearing comments, the Illinois EPA eliminated a date distinction in the applicability provision of Section 848.400(b), making the financial assurance regulations generally applicable to owners and operators “prior to storing or disposing any used or waste tires.” PC at 13. The Board adopts these changes for second notice.

The exemptions to financial assurance requirements, as proposed at first notice, are defined by the type of site or facility. They include exemptions for government owned sites and sites “for which a removal agreement has been approved by the Agency.” Proposal at 37-38. There is also an exemption for sites where 60 tons or less of used or waste tires are stored and fewer than 50 used or waste tires have been disposed. The weight threshold of this exemption is not intended, however, to include two-inch-minus chips, and this exemption would not apply if the owner or operator had been issued, in a calendar year, more than one notice of violation of Section 55 of the Act. Proposal 37-38; SR at 16. Further, the Illinois EPA proposed, at first notice, exemptions like those proposed in Sections 848.301(b) and 848.301(c). Proposal at 38; *See supra* at 9.

In post hearing comments, the Illinois EPA qualified the consideration of two-inch-minus chips so that the two-inch-minus chips must be “under a contract for purchase or other sale” for them to be not included in the weight of used or waste tires at a facility. PC at 13-14. This change is more conservative than the original proposal, demanding financial assurance for those used or waste tires at a site, including two-inch-minus chips, that do not have an end user. *Id.* The Board agrees that two-inch-minus chips not under a contract for purchase should be subject to the financial assurance provisions. Therefore, the Board adopts the suggested changes in the second-notice rule language.

### **Maintaining Financial Assurance, Release of Financial Institution, and Application of Proceeds and Appeal (Sections 848.401, 848.402, and 848.403)**

Section 848.401(a) requires that owner or operators must maintain financial assurance in the amount equal to or greater than the removal cost estimate developed pursuant to proposed Section 848.404 and approved by the Illinois EPA. Proposal at 38. Section 848.401(b) lists events that require the removal cost estimate to be increased by an owner or operator. *Id.* Two instances that previously called for an increase in the removal cost estimate were deleted by the Illinois EPA, at first notice, due to the elimination of self-insurance as a method of financial assurance. SR at 16. Illinois EPA made no suggested change to this section as a result of the March 5, 2015 public hearing.

As proposed at first notice, Section 848.402 adds a requirement that an owner or operator make a written request that a financial institution be released, but the owner or operator must still demonstrate that one of two events has occurred. Proposal at 39; SR at 16-17. The two events are: 1) substitution of one form of financial assurance for another; and 2) the Agency's release of the owner or operator financial assurance due to the completion of tire removal. Proposal at 39. The first-notice proposal changes the provisions describing the two events from the present tense to the past tense to reflect that the owner or operator must demonstrate that one of the two events has already taken place. *Id.* Illinois EPA made no suggested change to this section as a result of the March 5, 2015 public hearing.

As proposed at first notice, Section 848.403 is not changed substantially from existing Board regulations. The Illinois EPA proposes adding to the list of determinations that can be appealed to the Board, the Agency's "refusal to approve a reduction in the penal sum of a bond." Proposal at 39; SR at 17. From that same list, the Illinois EPA removes a determination regarding self-insurance, because with the proposal, self-insurance may no longer be used as financial assurance. Proposal at 40; SR at 17.

#### **Removal Cost Estimate (Section 848.404)**

Changes proposed to Section 848.404(a) include an Illinois EPA approval of the removal cost estimate and that the cost estimate must account for the maximum amount of used or waste tires that may be accumulated at a site at any one time. Proposal at 40; SR at 17. Similar to the instances when an owner or operator must increase financial assurances pursuant to Section 848.401, the proposal requires that owners or operators revise the removal cost estimate when any action is taken that may increase that estimate, such as increasing the maximum accumulation of tires at the site. Proposal at 40. A change to Section 848.404(d) proposed at first notice clarifies that costs to the Illinois EPA, rather than projected costs of a third-party removal, must be the basis for the removal cost estimate. *Id.*; SR at 17. No changes to this section were made by the Board in response to the public notice and comment period.

#### **Mechanisms for Financial Assurance, Use of Multiple Financial Mechanisms, and Financial Mechanisms for Multiple Sites (Sections 848.406, 848.407, and 848.408)**

Proposed Section 848.406 includes three mechanisms for financial assurance that may be used alone or in combination to achieve compliance with the Board's regulations. Proposal at 41. The first-notice proposal adds "a surety bond guaranteeing payment," but deletes self-insurance from the list of mechanisms. *Id.*; SR at 17. No change to this section resulted from the public hearings or public comments.

Aside from a first-notice proposed change in Section 848.407 reflecting the addition of surety bonds to the list of approved mechanisms for financial assurance, the Illinois EPA also proposes adding language that allows the use of a standby trust for more than one financial assurance mechanism. Proposal at 41; SR at 18. In other words, as the proposal states, "a single standby trust fund may be established for two or more mechanisms." *Id.* In response to the

Board's pre-filed questions for the March 5, 2015 hearing, Illinois EPA added a reference to Section 848.406, which lists the financial mechanisms available for financial assurance, to the first sentence of Section 848.407. Ques. at 5-6; PC at 14. The Board agrees with the additional reference and adopts the suggested change for second notice.

First-notice proposed changes to Section 848.408 include eliminating a provision "regarding division of funds" that required the Illinois EPA to "direct only that amount of funds designated for that site," when one financial mechanism was being used for financial assurance of more than one site. Proposal at 42. The Illinois EPA proposes eliminating this provision because it is "impractical to administer." SR. at 18. The proposal makes other non-substantive changes, but no changes resulted from the public comment period.

### **Trust Fund (Section 848.410)**

The proposed, first-notice changes to Section 848.410 center on making the section more consistent with Section 264.143 of Title 40 of the Code of Federal Regulations. SR at 18; 40 C.F.R. 264.143 (July 1, 2014). First, the proposal specifies that, in order to qualify as a trustee for purposes of financial assurance, a trustee's operations must be "regulated and examined by a federal or state agency." Proposal at 42; SR at 18. The Illinois EPA also proposes that trust agreements must be on forms prescribed by the Agency. *Id.* Proposed Section 848.410(c) sets out the specific information required in the trust agreement. In proposed Section 848.410(d), the Illinois EPA shortens the trust pay-in period from five years to three and specifies that the pay-in period begins on "the date any of the sites covered by the trust agreement first receives used or waste tires." Proposal at 43; SR at 18. The same subsection proposes that the first annual payment into the trust must be made, and a receipt for that payment must be produced, before used or waste tires are received by a site covered by the trust agreement. *Id.*

As proposed, Section 848.410(e) sets up an annual valuation of the trust that the trustee must provide to the owner or operator and the Illinois EPA. Proposal at 44. The owner or operator's failure to object to the valuation within 90 days "constitutes a conclusively binding assent by the owner or operator, barring the owner or operator from asserting any claim or liability against the trustee with respect to matters disclosed in the statement." *Id.* Proposed Section 848.410(f) requires the owner or operator to ensure that the trust amount, or the trust amount in combination with some other financial assurance, is equal to or greater than the removal cost estimate for the site. *Id.* Additional changes to Sections 848.410(g) and 848.410(h) aim to ensure that the amount of any trust used for financial assurance and the removal cost estimate remain similar, so that excess money is not tied up in the trust. Proposal at 44-45.

In its post-hearing comments, Illinois EPA proposes incorporating some requirements of the current "trust agreement" that appears in appendices and illustrations of the current regulations into the Section 848.410(c) language. PC at 14-15. Also, in its pre-filed questions for Illinois EPA, the Board asked about the effect of the "as soon as practicable" language in Section 848.410(g) describing how quickly the Illinois EPA had to respond to itemized removal action bills. Ques. at 6. In response, the Illinois EPA changed the proposal in post-hearing

comments to limit its response time to “not more than 120 days following the Agency’s receipt of the request” for reimbursement. PC at 15. The Board agrees with the Illinois EPA’s change, limiting the amount of time that the Illinois EPA may hold removal action bills; therefore, the Board adopts the 120-day deadline as a part of the second-notice rule language.

### **Surety Bond Guaranteeing Payment (Section 848.411)**

Section 848.411 of the first-notice proposal is an entirely new section reflecting a surety bond guaranteeing payment being added to the list of mechanisms for financial assurance under proposed Section 848.406. Proposal 45-49; SR at 18. The proposed section reiterates that a surety bond may be used to satisfy the requirements of Subpart D regarding financial assurance before setting out the requirements for the surety bond and stating that the surety bond must be on a form prescribed by the Agency. Proposal at 46. Section 848.411(d) requires that if an owner or operator uses a surety bond, they must also establish a standby trust. The standby trust must meet the requirements of a trust fund, as specified in Section 848.410, with some additional, listed requirements. Proposal at 46.

Section 848.411(e) sets out the conditions that must be followed if a surety bond is used for financial assurance and under what circumstances the surety will become liable on the bond. Proposal at 46-47. Section 848.411(f) sets the penal sum of the bond, generally, as “at least equal to the current approved removal cost estimate.” Proposal at 47. Finally, Section 848.411(g), as proposed provides for cancellation of the surety bond as soon as practicable after either the owner or operator substitutes the surety bond with alternative financial assurance, or the Agency releases the owner or operator following completion of removal. Proposal at 48-49. In post hearing comments, the Illinois EPA made no substantive changes to Section 848.411, but added a cross-reference to Section 848.410 and the rules for using a trust fund as financial assurance. PC at 16. The Board finds the cross-reference helpful and adopts it as part of the second-notice rule language.

### **Letter of Credit (Section 848.413)**

At first notice, proposed Section 848.413 provides how an owner or operator may satisfy the financial assurance requirements using an irrevocable standby letter of credit. Proposal at 49. The Illinois EPA proposes that the issuer of the letter of credit must be “regulated and examined by a federal or state agency,” and that letters of credit be on a form prescribed by the Illinois EPA. *Id.*; SR at 19. Additional proposed changes from the existing regulation include provisions for the removal cost estimate increasing or decreasing and allowing the Illinois EPA to draw on the letter of credit if the owner or operator fails to properly manage the inflow of used or waste tires. *Id.*

In response to hearing officer questions during the March 5, 2015 hearing, the Illinois EPA added some cross-references to the requirements found at Section 848.413(d)(2). PC at 17. The Board adopts the first-notice language with the addition of the cross-references for second-notice.

### **Repeal of Self-Insurance for Non-Commercial Sites (Section 848.415)**

In the first-notice rule language, the Illinois EPA simply states that not only is self-insurance the riskiest method of financial assurance, but also no current owners or operators use it to provide financial assurance. SR at 19. For those reasons, the Illinois EPA proposes eliminating it as an option for financial assurance. Proposal at 52-56.

### **Subpart E: Tire Removal Agreements**

In its statement of reasons, the Illinois EPA provides that “[m]ost of the changes to Subpart E are non-substantive.” SR at 19. The majority of change in this subpart indicates statutory language from Section 55.4 of the Act in italics rather than all caps. Otherwise, outdated provisions are either eliminated or made timeless with the removal of a date in the past. For example, in Section 848.501, where the existing regulation states “[f]or tire disposal sites at which used or waste tires are first disposed after January 1, 1992, prior to disposing any used or waste tires . . .” the proposed regulation states, “[b]efore disposing of any used or waste tires . . .” Proposal at 57. After the public notice and comment period, the Illinois EPA proposed changing incorrect statutory citations in two instances in the Subpart. PC at 17-18. The Board adopts, for second-notice, the rule language with the corrected statutory citations.

### **Subpart F: Tire Transportation Requirements**

#### **Tire Transportation Prohibitions (Section 848.601)**

The Illinois EPA states that Subpart F of the first-notice proposal, beginning with Section 848.601, contains a number of substantive changes. SR at 19. In proposed Section 848.601(a), the Illinois EPA changes registration requirements for hauling 20 or more used or waste tires from a vehicle-based registration to a person-based registration. Proposal at 61; SR at 19. The vehicle hauling the tires, however, must display a placard issued by the Illinois EPA and must haul the tires in a compartment completely separate from the passenger compartment. Proposal at 62. Section 848.601(c) proposes exempting the hauling of tire carcasses to a tire retreading facility, pursuant to a bill of lading, from the registration and placard requirements. *Id.* In post-hearing comments, the Illinois EPA added a reference to Section 848.607 to the exemption for people hauling tire carcasses with a bill of lading because Section 848.607 deals only with tire tracking receipts. PC at 18. The Board adopts, for second-notice, the rule language including the reference to Section 848.607.

#### **Tire Transportation Registrations and Agency Approval of Registrations (Sections 848.602 and 848.603)**

As explained by Illinois EPA in the statement of reasons, most first-notice changes to Section 848.602 involve switching the registration program from one for vehicles to one for people. SR at 19; Proposal at 62-63. The Illinois EPA does, however, require registered persons to update the Agency with: changes in information submitted on registration forms; a change in vehicle information; or a change in ownership. Proposal at 63.

In Section 848.603, the first-notice proposal provides that the Illinois EPA must reject any incomplete tire transporter registration and that the registration applicant may treat the rejection as a final action pursuant to Section 40 of the Act. Proposal at 63; SR at 20; *see* 415 ILCS 5/40 (2014). Section 848.603(d) of the proposal provides for Agency denial of a registration application if the applicant has committed specified violations of the Act, or has been the subject of corrective or preventive action pursuant to the Act within the previous five years. Proposal at 64. No changes to these sections resulted from the public notice and comment period.

**Registration No Defense, Duration and Renewal and Vehicle Placarding (Sections 848.604, 848.605, and 848.606)**

Sections 848.604 and 848.605, as proposed at first notice, contain no substantive changes from existing regulations. Proposal at 65. Section 848.606, however, proposes changes that reflect a person receiving the registration rather than a vehicle—the person registered as a tire transporter must place placards on the vehicle transporting the tires. Proposal at 65. In addition, the transporter must display a seal, provided by the Illinois EPA, indicating when the person’s registration expires. *Id.* In post-hearing comments, the Illinois EPA clarified that the placard requirement applies to each vehicle used to transport tires by a registered person, not just one vehicle. PC at 19. The Board adopts, for second notice, the rule language including the Illinois EPA’s change suggested in post-hearing comments.

**Tire Tracking Receipts (Section 848.607)**

At first notice, proposed, new Section 848.607 sets out the tire tracking receipts program. Proposal at 65. Section 848.607(a) provides that both the transporter and the person from which the transporter receives used or waste tires must each retain a tire tracking receipt containing specified information. *Id.* at 65-66. Likewise, proposed Section 848.607(b) contains the same requirements for the transporter and the used or waste tire facility where the tires are delivered. Section 848.607(c) requires the transporter to maintain the receipts at its principal place of business, and Section 848.607(d) provides that the tire tracking receipts be on a form prescribed by the Illinois EPA. Proposal at 66. No change to this section resulted from the public notice and comment period.

**Annual Tire Transportation Report and Retention of Records (Sections 848.608 and 848.609)**

At first notice, proposed new Section 848.608 mandates that registered tire transporters submit an Annual Tire Transportation Report to the Illinois EPA on a form prescribed by the Agency. Proposal at 66. Section 848.608(a) indicates what identifying information must be on the annual report and Section 848.608(b) indicates that the report must include information about the amount of used or waste tires received, delivered, and retained by the registered transporter. *Id.* at 66-67. Finally, Section 848.606(c) provides that the annual report must be submitted to the

Illinois EPA before March 1 for the previous calendar year. *Id.* at 67. No change to this section resulted from the public notice and comment period.

Section 848.609 of the Illinois EPA's proposal requires copies of all records required by Subpart F of the rulemaking to be retained for three years and be available for inspection and copying by the Agency. Proposal at 67. No substantive change to this section resulted from the public notice and comment period.

### **Certification (Section 848.610)**

Section 848.610(a) of the first-notice proposal requires that all reports submitted to the Agency be signed by a person designated by the transporter. Proposal at 67. That person must be "responsible for preparing and reviewing such documents . . . in the regular course of business." *Id.* Proposed Section 848.610(b) sets out the certification statement that must be made when submitting a document to the Illinois EPA. *Id.* No change to this section resulted from the public notice and comment period.

## **Subpart G: Tire Storage Permits**

### **Tire Storage Permits (Section 848.701)**

This proposed new section contains the provisions that the Illinois EPA was required to file with the Board by Public Act 98-656. Proposed Section 848.701(a) prohibits the operation of tire storage sites where more than 10,000 passenger tire equivalents are present or where more than 500 tons of used tires are processed in a calendar year without a tire storage permit issued by the Illinois EPA. Proposal at 68. The permit requirement begins on January 1, 2016. *Id.* In post-hearing comments, the Illinois EPA suggested adding the statutory citation creating this permitting program. PC at 20. Section 848.701(b) demands that tire storage permit application be submitted to the Illinois EPA at least 90 days before the site requires the permit. *Id.* Section 848.701(c) states that, once a permit is granted, that permit remains effective until revoked, superseded, or modified. *Id.* Section 848.701(d) provides for termination of the tire storage permit if a permittee ceases operation of a site. *Id.* Other than the addition of the statutory citation in subsection (a), no changes resulted to Section 848.701 as a result of the public notice and comment period. Therefore, the Board adopts, for second notice, the rule language including statutory citation.

### **Application for Tire Storage Permits (Section 848.702)**

Section 848.702, as proposed at first notice, provides for the tire storage permit application and application process. Proposal at 68-69. First, in Section 848.702(a) and (b), the Illinois EPA indicates what information is required in the application and suggests that the Agency may provide application forms. *Id.* at 68. Subsections (c) and (d) indicate that applications must be signed by a person authorized to do so and sent to the address provided by the Agency. *Id.* Sections 848.702(e) through (h) set out the application approval timeline in the case that the Illinois EPA fails to act on an application in a timely manner or in the event the

applicant waives the Agency's deadline to act. *Id.* at 68-69. Finally, proposed Section 848.702(j) provides that the Illinois EPA's decision on a permit application may be appealed consistent with Section 40 of the Act. *Id.* at 69.

Changes suggested by the Illinois EPA in post-hearing comments for Sections 848.702(b), (d), and (e) simply provide that the Agency will, rather than may, provide the application form and that applications must be submitted on the form prescribed by the Agency. PC at 20-21. Therefore, the Board adopts, for second notice, the rule language including that applications must be submitted on the Agency's form.

### **Permit Conditions and Standards for Issuance (Sections 848.703 and 848.704)**

Section 848.703, as proposed at first notice, provides that the Illinois EPA may include permit conditions in any tire storage permit issued "as may be necessary to accomplish the purposes of the Act." Proposal at 69. Further, that section specifies that any condition imposed may be challenged as a denial of the permit for purposes of review pursuant to Section 40 of the Act. *Id.* Section 848.704 provides that the Illinois EPA must not grant a permit application unless the applicant has proven that issuing the permit will not violate the Act. This section, as proposed, also provides that the Illinois EPA may grant a tire storage permit to an applicant that has been granted a variance under the Act. *Id.* at 69. No change to these sections resulted from the public notice and comment period.

### **Permit No Defense, Revision, Transfer and Revocation (Sections 848.705, 848.706, 848.707, and 848.708)**

Proposed Section 848.705 makes it clear that a tire storage permit is not a defense to a violation of the Act other than operation of a tire storage site without a permit. Proposal at 70. Section 848.706, as proposed, states that the Illinois EPA must revise issued permits to reflect new regulations. That same section also indicates that a permittee may request modification of an issued permit by filing a new permit application. *Id.* at 70. Proposed Sections 848.707 and 848.708 state that a tire storage permit is not transferable and that the Illinois EPA may revoke a tire storage permit in response to a violation of the Act by the permittee, respectively. *Id.* Again, no change to these sections, as proposed, resulted from the public notice and comment period.

The Illinois EPA proposes repealing the Financial Assurance Forms section of the existing rule so that the Agency may make changes to the prescribed forms necessary for compliance with the rule, without amending the regulations. SR at 20.

## **TECHNICAL AND ECONOMIC CONSIDERATIONS**

In the Illinois EPA's statement of reasons, it states that the burdens created by the rulemaking would affect only the largest facilities that pose the greatest risk to the public health. SR at 21. As an example, the Illinois EPA argues that the permitting requirements affect only the largest of tire storage sites. Additionally, the Illinois EPA cites exemptions for persons hauling used tires to or from a retreading facility, for example, as a way the economic impact of

the rule has been limited. *Id.* Finally, the Illinois EPA “believes that any technical and economic costs that might be imposed on individuals as a result of any changes the Agency is proposing to Part 848 will be largely offset by increases in public health, safety, and welfare brought about by those changes. *Id.*”

In questions filed prior to the March 5, 2015 public hearing, the Board asked the Illinois EPA to “[p]rovide information on whether the facilities subject to the proposed rulemaking have the infrastructure necessary to comply with the rule in place, or if the requirements of the rule . . . will demand significant monetary investment.” Ques. at 2. In response, at hearing, Mr. Marvel testified that “the provisions in the proposed amendments are consistent with standard industry practice and we believe in large part the used tire industry has the majority of the infrastructure already in place to comply.” Tr. at 15. Mr. Marvel continued, “I wouldn’t think that it would be a significant monetary impact on facilities.” *Id.* In addition, the Illinois EPA reminded the Board that the permit requirement portions of the rulemaking were mandated by the legislature, not created by the Illinois EPA. *Id.*

As mentioned above, by letter dated January 20, 2015, the Board requested an economic impact study from DCEO pursuant to Section 27 of the Act. 415 ILCS 5/27 (2014). On January 29, 2015, the Board received a letter from DCEO stating that DCEO is unable to undertake an economic impact study. During the April 15, 2015 public hearing, a person associated with a tire recycling site asked what a DCEO economic impact study would look like in this case. Tr. 2 at 22. The person indicated that if DCEO were to send out a questionnaire to facilities in the used and waste tire industry, facilities would be eager to respond because they will be affected by the rulemaking. *Id.* at 22-24. In response, the Board indicated its desire to receive public comment on the economic impact of the rulemaking and instructed the commenter on how to submit those comments. *Id.* at 24-26. The Board has received no public comments since the April 15, 2015 hearing.

The Board notes that the methods of providing financial assurance contained in the proposed rules may also present a financial burden for owners and operators of used or waste tire facilities. However, the proposed rulemaking eliminates a financial assurance option that posed the greatest risk to the public and that the Illinois EPA’s witness, Mr. White, testified is not currently used by tire facilities. In its place, the Illinois EPA proposes, and the Board concurs with another financial assurance option (the surety bond guaranteeing payment). White Test. at 3-4. Therefore, changes to the financial assurance obligations to owners and operators of used or waste tire facilities should not be substantially changed from existing regulatory requirements.

The record does not include evidence that the proposal would impose an economic hardship on used or waste tire facilities. Illinois EPA testified that the rulemaking was designed to place the burdens only on the large facilities that posed the greatest risk to the public welfare. The Board finds that the proposed rules are economically reasonable. In addition, the record does not include evidence that the proposed rules are technically infeasible for the used and waste tire industry. In contrast, as stated by the Illinois EPA, the Board finds that the proposed rules do not impose on used and waste tire handlers new infrastructure requirements.

The Board finds, therefore, that the proposed rules are technically feasible and economically reasonable. The rules are designed to protect the public health from the threats associated with improper management of used and waste tires while minimizing impacts on the market for those tires and the businesses that convert used or waste tires into marketable commodities. In support of this finding, the Board notes the lack of objections filed by potential stakeholders, Illinois EPA, or USEPA in the development of the rulemaking. In addition, the Board notes the outreach conducted by the Illinois EPA in forming the proposal as support for this finding.

### **CONCLUSION**

The Board finds that the Illinois EPA's proposal for protecting the State's residents from the threats of improper management of used and waste tires is technically feasible and economically reasonable. At second notice, the Board makes a number of rule language changes, as discussed above. The Board also makes a limited number of technical changes that do not merit substantive discussion in the opinion. Accordingly, the Board adopts for second notice the rule language contained in the following order.

### **ORDER**

The Board directs the Clerk to submit the following proposed amendments to its used and waste tires regulations to JCAR for second notice review under the Illinois Administrative Procedure Act. Proposed additions to the Board's first-notice proposal are underlined, and proposed deletions from that proposal are stricken.

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE G: WASTE DISPOSAL  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER m: USED AND WASTE TIRES

PART 848  
 MANAGEMENT OF USED AND WASTE TIRES

SUBPART A: GENERAL

Section	
848.101	Applicability
848.102	Severability
848.103	Other Regulations
848.104	Definitions
848.105	Incorporation by Reference
848.106	Estimating the Weight of Used and Waste Tire Accumulations

SUBPART B: MANAGEMENT STANDARDS

Section	
848.201	Applicability
848.202	Requirements
848.203	Contingency Planning and Emergency Response
848.204	Storage of Used and Waste Tires Within Buildings
848.205	Pesticide Treatment
848.206	Exemptions for Tire Retreading Facilities (Repealed)
848.207	Exemptions for Tire Stamping & Die Cutting Facilities (Repealed)
848.208	Exemptions for Sites With a Tire Removal Agreement (Repealed)

#### SUBPART C: RECORDKEEPING AND REPORTING

Section	
848.301	Applicability
848.302	Records
848.303	Daily Tire Record
848.304	Annual Tire Summary
848.305	Tire Tracking Receipts
848.306	Certification
848.307	Retention of Records

#### SUBPART D: FINANCIAL ASSURANCE

Section	
848.400	Scope and Applicability
848.401	Maintaining Financial Assurance
848.402	Release of Financial Institution
848.403	Application of Proceeds and Appeal
848.404	Removal Cost Estimate
848.406	Mechanisms for Financial Assurance
848.407	Use of Multiple Financial Mechanisms
848.408	Use of a Financial Mechanism for Multiple Sites
848.410	Trust Fund
848.411	Surety Bond Guaranteeing Payment
848.413	Letter of Credit
848.415	Self-Insurance for Non-commercial Sites (Repealed)

#### SUBPART E: TIRE REMOVAL AGREEMENTS

Section	
848.501	Applicability
848.502	Removal Performance Standard
848.503	Contents of Proposed Tire Removal Agreements
848.504	Time Allowed for Tire Removal

848.505	Removal Plan
848.506	Initiation of Tire Removal
848.507	Certification of Removal Completion
848.508	Agency Approval
848.509	Board Review

#### SUBPART F: TIRE TRANSPORTATION REQUIREMENTS

Section	
848.601	Tire Transportation Prohibitions
848.602	Tire Transportation Registrations
848.603	Agency Approval of Registrations
848.604	Registration No Defense
848.605	Duration and Renewal
848.606	Vehicle Placarding
848.607	Tire Tracking Receipts
848.608	Annual Tire Transportation Report
848.609	Retention of Records
848.610	Certification

#### SUBPART G: TIRE STORAGE PERMITS

Section	
848.701	Tire Storage Permits
848.702	Application for Tire Storage Permits
848.703	Permit Conditions
848.704	Standards for Issuance of Tire Storage Permits
848.705	Permit No Defense
848.706	Permit Revision
848.707	No Transfer of Permits
848.708	Permit Revocation
848.Appendix A	"Financial Assurance Forms" (Repealed)
848.Illustration A	"Trust Agreement" (Repealed)
848.Illustration B	"Certification of Acknowledgement" (Repealed)
848.Illustration C	"Irrevocable Standby Letter of Credit" (Repealed)
848.Illustration D	"Owner or Operator's Bond Without Surety" (Repealed)
848.Illustration E	"Owner or Operator's Bond With Parent Surety" (Repealed)
848.Illustration F	"Letter from the Chief Financial Officer" (Repealed)

AUTHORITY: Implementing Section 55.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/55.2 and 27].

SOURCE: Adopted in R90-9(A) at 15 Ill. Reg. 7959, effective May 10, 1991; amended in R90-9(B) at 16 Ill. Reg. 3114, effective February 14, 1992; amended in R 98-9 at 22 Ill. Reg. 11420, effective June 23, 1998; amended in R15-19 at 39 Ill. Reg. \_\_\_\_\_ effective \_\_\_\_\_.

## SUBPART A: GENERAL

### Section 848.101 Applicability

Section 55 of the Environmental Protection Act [415 ILCS 5/55] sets forth prohibitions relative to the storage, processing, disposal and transportation of used and waste tires. This Part sets forth rules establishing further requirements relative to the storage, processing, disposal and transportation of used and waste tires. Notwithstanding any other provision of this Part, this Part does not apply to:

- a) ~~(Reserved)two-inch minus chips supplied to a purchaser under a contract for purchase or other sale;~~
- b) converted tires manufactured to an exact specification and supplied to a purchaser under a contract for purchase or other sale;
- c) new or reprocessed tires;
- d) reused tires altered to prevent the accumulation of water;
- e) used or waste tires exempted pursuant to Section 55.1 of the Act;
- f) used tires located at a tire storage site at which not more than 50 used tires are located at any one time;
- g) used or waste tires accepted by an owner or operator of a sanitary landfill in accordance with Section 55 of the Act, and managed at a municipal solid waste landfill in accordance with a solid waste permit issued by the Agency; or
- h) used or waste tires managed under, and in accordance with, a beneficial use determination issued pursuant to Section 22.54 of the Act.~~used or waste tires altered, by shredding or slicing, and stored at the site where burned as fuel; or~~
- i) ~~used or waste tires managed under, and in accordance with, a beneficial use determination issued pursuant to Section 22.54 of the Act.~~

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 848.104 Definitions

For the purposes of this Part, except as the context otherwise clearly requires, the words and terms defined in this Section have the meanings given in this Section. Words and terms not defined in this Section have the meanings otherwise set forth in the Act and rules and regulations adopted under the Act.

"Act" means the Environmental Protection Act (415 ILCS 5).

*"Agency" is the Environmental Protection Agency established by the Act. [415 ILCS 5/3.105]*

"Aisle" means an accessible clear space, that is: (1)

located indoors and between each storage pile and all other storage piles, groups of storage piles, combustible materials, and indoor activities at the site that present a risk of fire; and (2)

maintained in a manner that provides for unobstructed storage pile access, movement of equipment, visual inspection of storage piles, and operations.

*"Altered tire" means a used tire which has been altered so that it is no longer capable of holding accumulations of water, including, but not limited to, used tires that have been shredded, chopped, drilled with holes sufficient to assure drainage, slit longitudinally and stacked so as not to collect water, or wholly or partially filled with cement or other material to prevent the accumulation of water. "Alteration" or "altering" means action which produces an altered tire. [415 ILCS 5/54.01]*

*"Converted tire" means a used tire which has been manufactured into a usable commodity other than a tire. "Conversion" or "Converting" means action which produces a converted tire. Usable products manufactured from tires, which products themselves are capable of holding accumulations of water, shall be deemed to be "converted" if they are stacked, packaged, boxed, containerized or enclosed in such a manner as to preclude exposure to precipitation prior to sale or conveyance. [415 ILCS 5/54.02]*

*"Covered Tire" means a used tire located in a building, vehicle or facility with a roof extending over the tire, or securely located under a material so as to preclude exposure to precipitation. [415 ILCS 5/54.03]*

*"Disposal" means the placement of used tires into or on any land or water except as an integral part of systematic reuse or conversion in the regular course of business. [415 ILCS 5/54.04]*

"Firebreak" means an accessible, clear space that is: (1) located outdoors

and between each storage pile and all other storage piles, groups of storage piles, buildings, property boundaries, trees, combustible ground vegetation, combustible materials, and outdoor activities at the site that present a risk of fire; and (h<sub>2</sub>) maintained in a manner that provides for unobstructed storage pile access, movement of equipment, visual inspection of storage piles, and fire-fighting operations.

"Fully enclosed container" means a portable, hard-walled, lockable receptacle that is impervious to precipitation and surface runoff. "Fully enclosed container" does not include any container that is overfilled and cannot, as a result, be locked.

*"New tire" means a tire which has never been placed on a vehicle wheel rim. [415 ILCS 5/54.05]*

"Passenger tire equivalent" means an average-sized passenger tire weighing 22.5 pounds.

*"Processing" means the altering, converting or reprocessing of used or waste tires. [415 ILCS 5/54.06]*

*"Recyclable tire" means a used tire which is free of permanent physical damage and maintains sufficient tread depth to allow its use through resale or repairing.*

*"Reprocessed tire" means a used tire which has been recapped, retreaded or regrooved and which has not been placed on a vehicle wheel rim. [415 ILCS 5/54.07]*

"Retread" or "Retreading" means the process of attaching tread to a tire carcass.

*"Reused tire" means a used tire that is used again, in part or as a whole, by being employed in a particular function or application as an effective substitute for a commercial product or fuel without having been converted. [415 ILCS 5/54.08]*

*"Storage" means any accumulation of used tires that does not constitute disposal. At a minimum, such an accumulation must be an integral part of the systematic alteration, reuse, reprocessing or conversion of the tire in the regular course of business. [415 ILCS 5/54.09]*

*"Tire" means a hollow ring, made of rubber or similar materials, which was manufactured for the purpose of being placed on the wheel rim of a vehicle. [415 ILCS 5/54.10]*

*"Tire carcass" means the internal part of a used tire containing the plies, beads, and belts suitable for retread or remanufacture. [415 ILCS 5/54.10a]*

*"Tire derived fuel" means a product made from used tires to exact specification of a system designed to accept a tire derived fuel as a primary or supplemental fuel source. [415 ILCS 5/54.10b]*

*"Tire disposal site" means a site where used tires have been disposed of other than a sanitary landfill permitted by the Agency. [415 ILCS 5/54.11]*  
~~"TIRE DISPOSAL SITE" MEANS A SITE WHERE USED TIRES HAVE BEEN DISPOSED OF OTHER THAN AT A LANDFILL PERMITTED BY THE AGENCY, OR OPERATED IN ACCORDANCE WITH SECTION 55(D) OF THE ACT. (Section 54.11 of the Act)~~

*"Tire retreading facility" means a facility that retreads an average of at least 100 tires per operating day.*

*"Tire stamping and die cutting facility" means a facility that stamps or die cuts an average of at least 100 tires per operating day.*

*"Tire storage site" means a site where used tires are stored or processed, other than (1) the site at which the tires were separated from the vehicle wheel rim, (2) the site where the used tires were accepted in trade as part of a sale of new tires, or (3) a site at which tires are sold at retail in the regular course of business, and at which not more than 250 used tires are kept at any time or (4) a facility at which tires are sold at retail provided that the facility maintains less than 1300 recyclable tires, 1300 tire carcasses, and 1300 used tires on site and those tires are stored inside a building so that they are prevented from accumulating water. [415 ILCS 5/54.12]*

*"Tire transporter" means a person who transports used or waste tires in a vehicle. [415 ILCS 5/54.12b]*

*"Two-inch-minus chips" means altered tires shredded or processed into pieces having no individual dimension greater than 2 inches.*

*"Unit of local government" means a unit of local government as defined in Article VII, Section 1 of the Illinois Constitution.*

*"Used tire" means a worn, damaged, or defective tire which is not mounted on a vehicle and any portion of such a tire. [415 ILCS 5/54.13]*

*"Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn, except devices moved by human power or by animal power, devices used exclusively upon stationary rails or tracks, and motorized wheelchairs. [415 ILCS 5/54.15]*

*"Waste tire" means a used tire that has been disposed of and any portion of such a tire. [415 ILCS 5/54.16]*

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.105 Incorporation by Reference**

- a) The Board incorporates the following document by reference:

NFPA 51B, "Standard for Fire Prevention During Welding, Cutting, and Other Hot Work," 2014 Edition, National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169- 7471.

- b) This Section incorporates no later amendments or editions.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.106 Estimating the Weight of Used and Waste Tire Accumulations**

- a) If the weight of an accumulation of used or waste tires is unknown, its weight may, for the purposes of this Part, be calculated by multiplying the volume of the accumulation, measured in cubic yards, by the appropriate density factor listed ~~below~~ in this subsection (a).

- 1) Whole Tires in Shallow Piles. For a used or waste tire accumulation that is not greater than 10 feet in height and that is composed exclusively of used or waste tires that have not been chopped or shredded, the appropriate density factor is 0.11 tons per cubic yard, unless the tires in the accumulation are stacked or laced, in which case the appropriate density factor is 0.17 tons per cubic yard.
- 2) Whole Tires in Deep Piles. For a used or waste tire accumulation that is greater than 10 feet in height and that is composed exclusively of used or waste tires that have not been chopped or shredded, the appropriate density factor is 0.13 tons per cubic yard, unless the tires in the accumulation are stacked or laced, in which case the appropriate density factor is 0.17 tons per cubic yard.
- 3) Coarse Shreds in Shallow Piles. For a used or waste tire accumulation that is not greater than 10 feet in height and that is composed exclusively of

used or waste tires that have been chopped or shredded into pieces having any dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.36 tons per cubic yard.

- 4) Coarse Shreds in Deep Piles. For a used or waste tire accumulation that is greater than 10 feet in height and that is composed exclusively of used or waste tires that have been chopped or shredded into pieces having any dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.44 tons per cubic yard.
  - 5) Fine Shreds in Shallow Piles. For a used or waste tire accumulation that is not greater than 10 feet in height and that is composed exclusively of used or waste tires that have been chopped or shredded into pieces having no dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.47 tons per cubic yard.
  - 6) Fine Shreds in Deep Piles. For a used or waste tire accumulation that is greater than 10 feet in height and that is composed exclusively of used or waste tires that have been chopped or shredded into pieces having no dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.58 tons per cubic yard.
  - 7) Mixtures of Coarse and Fine Shreds in Shallow Piles. For a used or waste tires accumulation that is not greater than 10 feet in height and that is composed of used or waste tires that have been chopped or shredded not only into pieces having no dimension that is greater than or equal to 4 inches but also into pieces having a dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.47 tons per cubic yard.
  - 8) Mixtures of Coarse and Fine Shreds in Deep Piles. For a used or waste tires accumulation that is greater than 10 feet in height and that is composed of used or waste tires that have been chopped or shredded not only into pieces having no dimension that is greater than or equal to 4 inches but also into pieces having a dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.58 tons per cubic yard.
- b) A used or waste tire storage pile may be divided into more than one accumulation of used or waste tires for the purposes of making the calculation described in subsection (a) ~~of this Section~~.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART B: MANAGEMENT STANDARDS

### Section 848.201 Applicability

- a) ~~Owners~~ Except to the extent exempted by subsection (b) or (c) of this Section, the owners and operators of any tire storage site ~~sites~~ and the owners and operators of any tire disposal site ~~sites~~ are subject to this Subpart.
- b) ~~The owners and operators of any tire retreading facilities at which less than 10,000 but more than 5,000 used or waste tires are located on site at any one time and at which the requirements of Sections 848.202(b)(3) and 848.203 are met, as well as the owners and operators of any tire stamping and die cutting facilities at which less than 10,000 but more than 5,000 used or waste tires are located on site at any one time and at which the requirements of Sections 848.202(b)(3) and 848.203 are met, are otherwise exempt from this Subpart with respect to those facilities.~~
- e) ~~The owners and operators of any tire retreading facilities at which 5,000 or fewer used or waste tires are located on site at any one time and at which the requirements of Section 848.202(b)(3) are met, as well as the owners and operators of any tire stamping and die cutting facilities at which 5,000 or fewer used or waste tires are located on site at any one time and at which the requirements of Section 848.202(b)(3) are met, are otherwise exempt from this Subpart with respect to those facilities.~~

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.202 Requirements**

- a) (Reserved).
- b) Owners and operators of any site ~~sites~~ at which more than 50 used or waste tires are located at any one time must comply with the following requirements:
- 1) No used or waste tires shall be placed or accumulated outside of a building or fully enclosed container, unless the used or waste tires are placed on or accumulated in a storage pile that is separated from:
    - A) all other storage piles by a firebreak that is not less than 40 feet wide;
    - B) all buildings, whether on or off site, by a firebreak that is not less than 50 feet wide;
    - C) all of the site's property boundaries by a firebreak that is not less than 50 feet wide;

- D) all outdoor activities at the site that present a risk of fire by a firebreak that is not less than 250 feet wide;
  - E) all trees by a firebreak that is not less than 100 feet wide;
  - F) all grass, weeds, brush, and combustible ground vegetation by a firebreak that is not less than 40 feet wide; and
  - G) any combustible material not listed ~~above~~ in this subsection (b)(1) by a firebreak that is not less than 40 feet wide.
- 2) No used or waste tires shall be placed or accumulated outside of a building or fully enclosed container, unless they are placed on or accumulated in a storage pile that:
- (iA) ~~that~~ is no more than 10 feet high by 50 feet wide by 100 feet long; and
  - (iiB) ~~that~~ has no side slope angle that exceeds 60 degrees from horizontal.
- 3) No used or waste tires shall be placed or accumulated on site unless they are drained of water and prevented from accumulating water thereafter.
- 4) If more than 20 used or waste tires are accepted at the site from a vehicle that fails to display the placard required under Subpart F, the owner or operator of the site must collect the following information and forward it to the Agency within 5 business days after accepting the tires:
- A) the name, address, and driver's license number of the person driving the vehicle;
  - B) the license plate number and vehicle identification number (VIN) of the vehicle; and
  - C) any available information about the sources of the tires being accepted.
- 5) No used or waste tires shall be placed or accumulated on site in any area where the grade of the ground surface exceeds two percent slope, unless the used or waste tires are stored within a berm or other structure that satisfies the requirements of subsection (d)(1)(C) ~~of this Section~~.
- 6) All activities at the site that present a risk of fire must be conducted either:

(A) ~~(i)~~ within a building and in accordance with Section 848.204(c)(4); or

(~~ii~~B) outdoors and separated from all used or waste tires by at least 250 feet.

c) In addition to the requirements set forth in subsection (b), owners and operators of any site sites at which more than 60 tons of used or waste tires are located at any one time must comply with the following requirements.

- 1) The contingency planning and emergency response requirements of Section 848.203 must be met.
- 2) The recordkeeping and reporting requirements of Subpart C must be met.
- 3) A tire storage plan that is designed to ensure compliance with the requirements of this Section must be developed for the site and must be adhered to at all times. A copy of the plan must be maintained on site and must be made available at the site for inspection and photocopying by the Agency during normal business hours.

d) In addition to the requirements set forth in subsections (b) and (c), owners and operators of any site sites at which more than 125 tons of used or waste tires are located at any one time must comply with the following requirements:

- 1) No used or waste tires shall be placed or accumulated outside of a building or fully enclosed container, unless:
  - A) the used or waste tires are stored in an area completely surrounded by fencing that is:
    - (i) ~~(i)~~ at least 6 feet high; and
    - (ii) in good repair;
  - B) the entrances to the area where the used or waste tires are located are controlled at all times by an attendant, locked entrances, television monitors, controlled roadway access or other equivalent mechanisms;
  - C) the used or waste tires are completely surrounded by an earthen berm or another walled, impermeable, aboveground structure that is; ~~in either case,~~

- i) \_\_\_\_\_ not less than 2 feet in height;
  - (ii) \_\_\_\_\_ capable of containing runoff resulting from tire fires; and
  - (~~+~~)(iii) \_\_\_\_\_ crossed by a stabilized roadway at not ~~less~~ fewer than 2 points of access that are sufficiently separated from one another to provide 2 independent means of ingress and egress during fire conditions; and
- D) one or more stabilized roadways provide firefighting personnel and equipment access to all portions of the tire storage area.
- 2) No used or waste tires shall be placed or accumulated within 250 feet horizontally of the ground surface directly beneath any electrical power line that has a voltage in excess of 750 volts or that supplies power to a fire emergency system.
- 3) The perimeter of each group of storage piles at the site must be separated at all times from the perimeter of all other groups of storage piles at the site by a firebreak of at least 75 feet. No group of storage piles may be composed of more than 3 individual storage piles, and no storage pile in such a group may have dimensions greater than those described in subsection (b)(2) ~~of this Section~~.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.203 Contingency Planning and Emergency Response**

Owners and operators of any site ~~sites~~ at which more than 60 tons of used or waste tires are located at any one time must:

- a) establish and maintain, for each site that is subject to the requirements of this Section, a contingency plan that:
  - 1) minimizes the hazards to human health and the environment from fires and run-off of contaminants resulting from fire and hazards from disease spreading mosquitos and other nuisance organisms that may breed in water accumulated in used or waste tires ~~fires~~;
  - 2) is carried out immediately whenever there is a fire or evidence of mosquito production in used or waste tires;
  - 3) describes the actions site personnel must take in response to fires, ~~and~~ run-off resulting from ~~tire~~ fires, and mosquito breeding in used or waste tires;

- 4) describes evacuation procedures, including, but not limited to, evacuation signals, primary evacuation routes, and alternate evacuation routes to be used ~~in cases where~~when the primary routes could be blocked;
  - 5) contains an up-to-date emergency equipment list that not only identifies all emergency equipment at the facility, such as fire-extinguishing systems, fire-suppression material, spill-control equipment, decontamination equipment, and communication and alarm systems (internal and external), but also describes the physical location and capabilities of each listed item; and
  - 6) provides the name, address, and telephone number of an employee designated as the primary emergency coordinator responsible for coordinating emergency response measures at the site, as well as an up-to-date list of all alternate emergency coordinators, listed in the order in which they will assume responsibility for coordinating emergency response measures at the site in the event that the primary emergency coordinator or another alternate emergency coordinator is unavailable;
- b) ensure that all emergency equipment at the site is at all times clean and fit for its intended purpose;
  - c) submit a copy of the contingency plan, and all revisions to the plan, to the local fire department and obtain, and keep on file for review by the Agency, a certificate stating that the plan and all plan revisions have been submitted to and approved by the fire department;
  - d) maintain a copy of the contingency plan and all revisions to the plan at the site at all times and make the plan available for inspection and photocopying by the Agency during normal business hours;
  - e) review and amend the contingency plan within 30 days after:
    - 1) any fire occurs at the site;
    - 2) the site changes in its design, construction, operation, maintenance, or other characteristics in a way that ~~either (i)~~ increases the potential for a fire at the site or the release of run-off from a fire at the site;
    - 3) the list of emergency coordinators for the site changes; or
    - 4) the list of emergency equipment at the site changes;
  - f) ensure that, at all times the primary emergency coordinator or an alternate emergency coordinator is either on the site premises or on call; that the primary

emergency coordinator and alternate emergency coordinators are familiar with all aspects of the contingency plan, all operations and activities at the site, the location of all records within the site and the site layout; and that the primary emergency coordinator and all alternate emergency coordinators have the authority to commit the resources needed to carry out the contingency plan;

- g) notify the Agency immediately if a fire occurs at the site and immediately begin managing, in accordance with all applicable federal and State laws and regulations, all contaminated soils, contaminated waters, and other wastes and materials resulting from the fire; and
- h) within 15 days after each incident that requires implementation of the contingency plan, submit to the Agency in writing an incident report that includes, at a minimum:
  - 1) the name, address, and telephone number of the site owners and operators;
  - 2) the name, address, and telephone number of the site;
  - 3) the date, time, and type of incident (e.g., fire or explosion);
  - 4) the type and quantity of materials involved in the incident;
  - 5) the extent of injuries, if any;
  - 6) an assessment of actual or potential hazards to human health or the environment as a result of the incident;
  - 7) the estimated quantity and disposition of released material that resulted from the incident; and
  - 8) a plan and schedule for completing all site remediation required under all applicable federal and State laws and regulations.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 848.204 Storage of Used and Waste Tires Within Buildings**

- a) Owners and operators of tire storage sites or tire disposal sites who store used or waste tires within buildings must meet the requirements of this Section.
- b) No used or waste tires shall be stored within a building unless:
  - 1) the tires are drained of all water prior to placement in the building;

- 2) all of the building's windows and doors are in working order and are secured to prevent unauthorized access;
  - 3) the building is fully enclosed and has a roof and sides that are impermeable to precipitation; and
  - 4) the building is not a single family home or other residential building.
- c) In addition to the requirements set forth in subsection (b), if more than 60 tons of used or waste tires are located at any one time at the site, the owners and operators of the site must:
- 1) develop, in consultation with the local fire department, a tire storage plan for all used or waste tires that are stored within any building at the site, that:
    - A) takes into consideration the type of building to be used for tire storage, (e.g., warehouse or former grain elevator) and the type of used or waste tires being stored, (e.g., whole or shredded);
    - B) identifies, at a minimum, the tire storage arrangement; aisle spacing; clearance distances between storage piles and the building walls and ceiling, unit heaters, furnaces, ducts, and sprinkler deflectors; and points of access for firefighting personnel and equipment; and
    - C) is maintained on site, adhered to at all times, made available for inspection and photocopying by the Agency during normal business hours. The plan must, and include the following certification signed by the owner or operator: "I certify that this tire storage plan has been developed in consultation with the local fire department and that a copy of this tire storage plan has been filed with the local fire department.";
  - 2) meet the contingency planning and emergency response requirements of Section 848.203; ~~and~~
  - 3) meet the recordkeeping and reporting requirements of Subpart C; and
  - 4) ~~while conducting in any building at the site any riveting, welding, flame-cutting, or other activity that presents a risk of fire,~~ comply with the NFPA 51B standard for fire prevention during welding, cutting, and other hot work.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.205 Pesticide Treatment**

- a) Owners and operators of tire storage sites or tire disposal sites treating used or waste tires with pesticides must:
  - 1) use a pesticide labeled for control of mosquito larvae unless an adult mosquito problem is identified;
  - 2) maintain a record of pesticide use at the site, that provides the following information for each application:
    - A) date of pesticide application;
    - B) number of used or waste tires treated;
    - C) amount of pesticide applied; and
    - D) type of pesticide used.
- b) Persons applying pesticides to used or waste tires must comply with the requirements of the Illinois Pesticide Act [415 ILCS 60]. Information is available from:

Illinois Department of Agriculture  
Bureau of Environmental Programs  
State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-9281

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.206 Exemptions for Tire Retreading Facilities (Repealed)**

(Source: Repealed at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.207 Exemptions for Tire Stamping and Die Cutting Facilities (Repealed)**

(Source: Repealed at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.208 Exemptions for Sites with a Tire Removal Agreement (Repealed)**

(Source: Repealed at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: RECORDKEEPING AND REPORTING

### Section 848.301 Applicability

- a) Except to the extent exempted under subsection (b) ~~or (c) of this Section~~, the owners and operators of any tire storage ~~site sites~~ at which more than 60 tons of used or waste tires are located at any one time, as well as the owners and operators of any tire disposal ~~site sites~~ at which more than 60 tons of used or waste tires are located at any one time, are subject to this Subpart.
- b) The owners and operators of any tire retreading facility facilities at which ~~less than 10,000 but more than 5,000 used or waste tires are located on site at any one time and at which the requirements of Sections 848.202(b)(3) and 848.203 are met~~, as well as the owners and operators of any tire stamping and die cutting ~~facilities at which less than 10,000 but more than 5,000 used or waste tires are located on site at any one time and at which the requirements of Sections 848.202(b)(3) and 848.203 are met~~, are exempt from the tire tracking receipt requirements of this Part 848 ~~Subpart with respect to those facilities~~.
- ~~c) The owners and operators of any tire retreading facilities at which 5,000 or fewer used or waste tires are located on site at any one time and at which the requirements of Section 848.202(b)(3) are met, as well as the owners and operators of any tire stamping and die cutting facilities at which 5,000 or fewer used or waste tires are located on site at any one time and at which the requirements of Section 848.202(b)(3) are met, are exempt from this Subpart with respect to those facilities.~~

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 848.302 Records

- a) The owner and operator must keep the following records:
  - 1) Daily Tire Record;
  - 2) Annual Tire Summary; and
  - 3) Tire Tracking Receipts.
- b) Each Annual Tire Summary submitted to the Agency shall be in a form as prescribed by the Agency.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 848.303 Daily Tire Record

- a) The owner or operator must maintain a the Daily Tire Record at the site. The Daily Tire Record; ~~that record must be maintained in a form and format prescribed by the Agency and must include the day of the week, the date, the Agency designated site number, and the site name and address, and the additional information required under this Section 848.303.~~
- b) Information relative to the daily receipt and disposition of used and waste tires at the site must be recorded in the Daily Tire Record, including, but not limited to:
  - 1) the name and registration number of each tire transporter who transported used or waste tires to the site during the operating day and the weight, in tons, of used or waste tires received at the site from the transporter during the operating day;
  - 2) the name and registration number of each tire transporter who transported used or waste tires from the site during the operating day, the weight, in tons, of used or waste tires transported from the site by the transporter during the operating day, and the name, address, and telephone number of the destination facility;
  - 3) the weight, in tons, of used or waste tires burned or combusted at the site during the operating day; and
  - 4) the weight, in tons, of used or waste tires remaining at the site at the conclusion of the operating day.
- c) Entries on the Daily Tire Record required to be made under this Section 848.303 ~~subsection (b)(1) or (b)(2) of this Section~~ must be made ~~contemporaneously with the receipt or transport of each load, unless the owner or operator uses a different method of recording the required information that ensures that required information can be entered on the Daily Tire Record by the end of each operating day, in which case the information must be recorded in the Daily Tire Record by the end of each operating day. Where an alternative method of contemporaneous recording is used, that record, in addition to the Daily Tire Record, must be maintained in accordance with the record retention provisions of Section 848.307. All other entries required to be made in the Daily Tire Record under this Section shall be made at the end of each operating day.~~

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 848.304 Annual Tire Summary

- a) The owner or operator must submit an Annual Tire Summary to the Agency for each calendar year. The Annual Tire Summary must be in a form ~~and format~~ prescribed by the Agency and must include the Agency designated site number, the site name and address, and the calendar year for which the summary applies.
- b) Information relative to the annual receipt and disposition of used and waste tires at the site must be recorded in the Annual Tire Summary, including, but not limited to:
  - 1) the weight, in tons, of used or waste tires received at the site during the calendar year;
  - 2) the weight, in tons, of used or waste tires transported from the site during the calendar year;
  - 3) the weight, in tons, of used or waste tires burned or combusted at the site during the calendar year; and
  - 4) the weight, in tons, of used or waste tires remaining in storage at the site at the conclusion of the calendar year.
- c) The Annual Tire Summary must be received by the Agency on or before January 31 of each year and must cover the preceding calendar year.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.305 Tire Tracking Receipts**

- a) Upon receiving any used or waste tires at the site, the owner or operator must provide a receipt to the transporter and keep a copy of the receipt. The receipt must include all of the following: the signature of the owner or operator; the name and registration number of the tire transporter; the signature of the tire transporter; the name, address, and telephone number of the site where used or waste tires were received; the date the used or waste tires were received at the site; and the number or weight, in tons, of used or waste tires received at the site.
- b) Upon transporting any used or waste tires from the site, the tire transporter must provide a receipt to the owner or operator and keep a copy of the receipt. The receipt must include all of the following: the signature of the owner or operator; the name and registration number of the tire transporter; the signature of the tire transporter; the date the used or waste tires were transported from the site; the number or weight, in tons, of used or waste tires transported from the site; and the destination(s) of the used or waste tires.

- c) Owners and operators must maintain on site a record of the receipt and disposition of all used or waste tires, including, but not limited to:
  - (1) receipts for any used or waste tires received at the site; and
  - (2) receipts for any used or waste tires that are transported from the site.
- d) The tire tracking receipts required under this Section and Section 848.607 shall be on a form prescribed by the Agency.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.306 Certification**

- a) All records, summaries, and reports submitted to the Agency as required by this Subpart must be signed by a person designated by the owner or operator as responsible for preparing and reviewing those documents as part of his or her duties in the regular course of business.
- b) Any person signing a document submitted under this Part must make the following certification:

I certify that I am responsible for preparing and reviewing this document and that this document and all attachments were prepared under my direction or supervision as part of my duties in the regular course of business. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties under Section 44 of the Environmental Protection Act including the possibility of fine and imprisonment for knowingly submitting false information.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.307 Retention of Records**

Copies of all records required to be kept under this Subpart shall be retained by the owner and operator for three years and shall be made available at the site during the normal business hours of the operator for inspection and photocopying by the Agency.

(Source: ~~Section 848.307 renumbered from Section 848.305~~ Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 848.400 Scope and Applicability

- a) (Reserved).
- b) Except to the extent exempted by subsection (c) ~~of this Section~~, owners and operators of any tire storage ~~site sites~~ and owners and operators of any tire disposal ~~site sites~~ must comply with this Subpart prior to storing or disposing any used or waste tires.
  - 1) ~~prior to storing or disposing any used or waste tires, for sites where used or waste tires are first stored or disposed on or after January 1, 1992;~~
  - 2) ~~by January 1, 1992, for sites where used or waste tires are disposed or stored prior to January 1, 1992.~~
- c) Owners and operators of tire storage sites and owners and operators of tire disposal sites are exempt from this Subpart with respect to the following types of sites:
  - 1) sites where the real estate of the site is owned by:
    - A) the United States or one of its agencies;
    - B) the State of Illinois or one of its agencies; or
    - C) a unit of local government;
  - 2) (Reserved);
  - 3) (Reserved);
  - 4) sites where, as reported in the annual notice of activity, 60 tons or less of used or waste tires, other than two-inch-minus chips that are supplied to a purchaser under a contract for purchase or other sale, are stored at the site and ~~less-fewer~~ less than 50 used or waste tires have been disposed. Provided, however, that this exemption does not apply if the owner or operator has been issued, in any calendar year, pursuant to Section 55.5 of the Act, more than one written notice of violation of Section 55 of the Act;
  - 5) sites for which a tire removal agreement has been approved by the Agency pursuant to Subpart E;
  - 6) any tire retreading facilities, or tire stamping and die cutting facilities, at which:

- (A) ~~less-fewer~~ than 10,000 but more than 5,000 used or waste tires are located on site at any one time; and
  - (B) the requirements of Sections 848.202(b)(3) and 848.203 ~~of this Part~~ are met; and
- 7) any tire retreading facilities, or tire stamping and die cutting facilities, at which:
- (A) 5,000 or fewer used or waste tires are located on site at any one time; and
  - (B) the requirements of Section 848.202(b)(3) ~~of this Part~~ are met.

Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 848.401 Maintaining Financial Assurance**

- a) Except as otherwise provided in subsection (b) ~~of this Section~~, the owner or operator must at all times maintain financial assurance in an amount equal to or greater than the current approved removal cost estimate calculated pursuant to Section 848.404.
- b) Within 60 days after the occurrence of any event listed in this subsection (b), the owner or operator must increase the total amount of financial assurance to an amount that is equal to or greater than the current approved removal cost estimate calculated pursuant to Section 848.404:
  - 1) the current approved removal cost estimate increases; or
  - 2) the value of a trust fund established pursuant to Section 848.410 decreases.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 848.402 Release of Financial Institution**

The Agency must release a trustee, bank, surety or other financial institution as soon as practicable after the owner or operator makes a written request for release and demonstrates that either one of the following events has occurred:

- a) the owner or operator has substituted alternate financial assurance that meets the requirements of this Subpart such that the total financial assurance for the site is

equal to or greater than the current approved removal cost estimate, without counting the amounts to be released; or

- b) the Agency has released the owner or operator from the requirements of this Subpart following completion of removal.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.403 Application of Proceeds and Appeal**

- a) The Agency may sue in any court of competent jurisdiction to enforce its rights under financial instruments used to provide the financial assurance required under this Subpart. The filing of an enforcement action before the Board is not a condition precedent to such an Agency action, except when this Subpart or the terms of the instrument provide otherwise.
- b) As provided in Titles VIII and IX of the Act and 35 Ill. Adm. Code 103 and 104, the Board may order that an owner or operator modify a removal plan or order that proceeds from financial assurance be applied to the execution of a removal plan.
- c) The following Agency actions may be appealed to the Board as a permit denial pursuant to 35 Ill. Adm. Code 105:
  - 1) a refusal to accept financial assurance tendered by the owner or operator;
  - 2) a refusal to release the owner or operator from the requirement to maintain financial assurance;
  - 3) a refusal to release excess funds from a trust;
  - 4) a refusal to approve a reduction in the penal sum of a bond; or
  - 5) a refusal to approve a reduction in the amount of a letter of credit.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.404 Removal Cost Estimate**

- a) No later than January 1 of each year, the owner or operator must submit to the Agency, for approval, a written estimate of the cost of removing the maximum number of used and waste tires that will be accumulated at the site at any time. This cost estimate shall be submitted by the owner or operator along with the annual notice of activity required under ~~subsection (d)~~ of Section 55(d) of the Act.

- b) In addition, the owner or operator must revise the removal cost estimate and submit the revised estimate for Agency approval before making or having made at the site any change that would increase the removal cost estimate, including, but not limited to, an increase in the maximum accumulation of used or waste tires that will be accumulated at the site at any one time.
- c) (Reserved).
- d) The owner or operator must base the removal cost estimate on costs to the Agency under a contract to perform tire removal actions in the area in which the site is located. Projected costs, assuming that the Agency will contract with a third party to implement the removal plan. A third party is a person who is neither a parent nor a subsidiary of the owner or operator.
- e) The removal cost estimate must, at a minimum, include all costs for all activities necessary to remove all used and waste tires in accordance with all requirements of this Part.
- f) Once the owner or operator has completed an activity described in subsection (e), the owner or operator may revise the removal cost estimate indicating that the activity has been completed, and zeroing that element of the removal cost estimate.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 848.406 Mechanisms for Financial Assurance**

The owner or operator may use any one of the following mechanisms to provide financial assurance for removal of used and waste tires or may use a combination of these mechanisms to the extent authorized under Section 848.407:

- a) a trust fund (Section 848.410);
- b) a surety bond guaranteeing payment (Section 848.411); or
- c) a letter of credit (Section 848.413).

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 848.407 Use of Multiple Financial Mechanisms**

An owner or operator may satisfy the requirements of this Subpart by establishing more than one financial mechanism listed in Section 848.406 per site. These mechanisms include ~~are limited to~~ trust funds, surety bonds guaranteeing payment, and letters of credit. The mechanisms must be as specified in Sections 848.410, 848.411, and 848.413, respectively, except that it is the

combination of mechanisms, rather than any single mechanism, that must provide financial assurance for an amount at least equal to the current approved removal cost estimate. ~~If an~~An owner or operator that uses a trust fund in combination with a surety bond or a letter of credit, ~~he or she~~ may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The owner or operator may use any or all of the mechanisms specified in Sections 848.410, 848.411, and 848.413 ~~of this Part~~ to provide for removal.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.408 Use of a Financial Mechanism for Multiple Sites**

An owner or operator may use a financial assurance mechanism specified in this Subpart to meet the requirements of this Subpart for more than one site. Evidence of financial assurance submitted to the Agency must include a list showing, for each site, the name, address and the amount of funds assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each site. The amount of funds available to the Agency must be sufficient to remove used and waste tires from all of the owner or operator's sites.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.410 Trust Fund**

- a) An owner or operator may satisfy the requirements of this Subpart by establishing a trust fund that conforms to the requirements of this Section and submitting an originally signed duplicate of the trust agreement to the Agency.
- b) The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.
- c) The trust agreement must be irrevocable, must be on forms prescribed ~~the~~ by the Agency, and must be accompanied by a formal certification of acknowledgment on a form prescribed by the Agency, and must contain provisions addressing, at a minimum, the establishment, management, and termination of the trust and a schedule listing, at a minimum, the sites covered by the trust, ~~and~~ the current approved removal cost for each of those sites, and prohibitions against third party access to the trust funds other than as provided in the trust agreement. The schedule required under this subsection (c) must be in the form prescribed by the Agency and must be updated within 60 days after a change in the amount of the current approved removal cost for any site covered by the trust.
- d) Payments into the Trust:

- 1) The owner or operator must make a payment into the trust fund each year during the pay-in period. However, after expiration of the pay-in period, neither the owner nor the operator may use a pay-in period to fund the trust and must instead make a lump sum payment to further fund the trust.
  - 2) The pay-in period is three years and commences on the date any of the sites covered by the trust agreement first receives used or waste tires.
  - 3) Annual payments are determined by the following formula:  

$$\text{Annual payment} = (\text{CE}-\text{CV})/\text{Y}$$

where:

CE	=	Current total approved removal cost estimate for all sites covered by the trust agreement
CV	=	Current value of the trust fund
Y	=	Number of years remaining in the pay in period.
  - 4) The owner or operator must make the first annual payment before used or waste tires are received at a site covered by the trust agreement. Before receiving used tires at a site covered by the trust agreement, the owner or operator must submit to the Agency a receipt from the trustee for the first annual payment.
  - 5) Subsequent annual payments must be made no later than 30 days after each anniversary of the first payment.
  - 6) The owner or operator may either accelerate payments into the trust fund, or may deposit the full amount of the current approved removal cost estimate at the time the fund is established.
  - 7) The owner or operator must maintain the value of the fund at no less than the value the fund would have if annual payments were made as specified in subsection (d)(3).
  - 8) If the owner or operator establishes a trust fund after having used one or more alternative mechanisms, the first payment must be in at least the amount the fund would contain if the trust fund were established initially and payments made as provided in subsection (d)(3).
- e) The trustee must evaluate the trust fund annually as of the anniversary of the day the trust was created or on such other date as may be provided in the agreement. Within 30 days after the evaluation date each year, the trustee must furnish the owner or operator and the Agency with a statement confirming the value of the trust fund within 30 days after the evaluation date. The failure of the owner or

operator to object in writing to the trustee within 90 days after the statement has been furnished to the owner or operator and the Agency constitutes a conclusively binding assent by the owner or operator, barring the owner or operator from asserting any claim or liability against the trustee with respect to matters disclosed in the statement.

- f) After the pay-in period is completed, whenever the removal cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator must, within 60 days after the change in the removal cost estimate, either deposit an amount into the fund so that its value after this deposit at least equals the amount of the removal cost estimate, or obtain other financial assurance as specified in this Subpart to cover the difference.
- g) Release of excess funds:
- 1) If the value of the trust fund is greater than the total amount of the current approved removal cost estimate, the owner or operator may submit a written request to the Agency for a release of the amount in excess of the current approved removal cost estimate.
  - 2) If an owner or operator substitutes other financial assurance as specified in this Subpart for all or part of the trust fund, he or she may submit a written request to the Agency for release of the amount in excess of the current approved removal cost estimate covered by the trust fund.
  - 3) As soon as practicable after receiving a request from the owner or operator for a release of funds pursuant to this subsection (g), but not more than 120 days following the Agency's receipt of the request, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing to be in excess of the current approved removal cost estimate.
- h) Reimbursement for removal expenses:
- 1) After initiating removal, an owner or operator, or any other person authorized to perform removal, may request reimbursement for partial or final removal expenditures, by submitting itemized bills to the Agency. The owner or operator may request reimbursements for partial closure only if sufficient funds remain in the trust fund to cover the costs of removal.
  - 2) As soon as practicable after receiving the itemized bills for partial or final removal activities, but not more than 120 days following the Agency's

receipt of the itemized bills, the Agency must determine whether the expenditures are in accordance with the removal plan. If the Agency determines, based on the information available to it, that the remaining cost of removal will be less than the value of the trust fund, the Agency must instruct the trustee to make reimbursement in such amounts as the Agency specifies in writing as expenditures in accordance with the removal plan.

- 3) If the Agency determines, based on such information as is available to it, that the remaining cost of removal will be greater than the value of the trust fund, it must withhold reimbursement of such amounts as it determines are necessary to preserve the trust corpus in order to accomplish removal until it determines that the owner or operator is no longer required to maintain financial assurance for removal. In the event the fund is inadequate to pay all claims after removal is completed, the Agency must pay claims according to the following priorities:
  - A) Persons with whom the Agency has contracted and authorized to perform removal activities (first priority);
  - B) Persons who have completed removal activities authorized by the Agency (second priority);
  - C) Persons who have completed work which furthered the removal (third priority);
  - D) The owner or operator and related business entities (last priority).

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.411 Surety Bond Guaranteeing Payment**

- a) An owner or operator may satisfy the requirements of this Subpart by obtaining a surety bond that conforms to the requirements of this Section and submitting the bond to the Agency.
- b) The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.
- c) The surety bond must be on standardized forms prescribed by the Agency and must contain provisions concerning, at a minimum, the penal sum and term of the bond, conditions upon which the bond is payable and cancellable and payments into the standby trust fund.

- d) An owner or operator who uses a surety bond must also establish a standby trust fund. Under the terms of the bond, all payments made ~~thereunder~~ under the surety bond must be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. The standby trust fund must meet the requirements of a trust fund specified in Section 848.410, except that:
- 1) the owner or operator must submit an originally signed duplicate of the trust agreement to the Agency with the surety bond; and
  - 2) until the standby trust is funded pursuant to the requirements of this Section, none of the following are required:
    - A) payments into the trust fund as specified in Section 848.410;
    - B) updating the trust agreement schedule in Section 848.410(c) to show the current approved removal cost estimates;
    - C) annual valuations as required by the trust agreement; or
    - D) notices of nonpayment as required by the trust agreement.
- e) Conditions
- 1) The bond must guarantee that the owner or operator will either:
    - A) perform removal in accordance with the removal plan; or
    - B) within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety, provide alternate financial assurance in accordance with this Subpart and obtain the Agency's written approval of the assurance provided.
  - 2) The surety will become liable on the bond obligation when, under the terms of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator does any one or more of the following:
    - A) abandons the site;
    - B) is adjudicated bankrupt;
    - C) within 30 days after the date on which the known final volume of used or waste tires is received, either fails to complete removal or

fails to submit a removal plan that is approved by the Agency in accordance with Section 848.506;

- D) fails to initiate removal when ordered to do so by the Board pursuant to Title VIII of the Act, or when ordered to do so by a court of competent jurisdiction;
  - E) fails to complete removal in accordance with the approved removal plan; or
  - F) fails, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the surety bond, to provide alternate financial assurance and obtain the Agency's written approval of the assurance provided.
- f) Penal Sum:
- 1) The penal sum of the bond must be in an amount at least equal to the current approved removal cost estimate, except as provided in Section 848.407.
  - 2) If the current removal cost estimate decreases, the penal sum may be reduced to the amount of the current approved removal cost estimate following written approval by the Agency.
  - 3) If the current removal cost estimate increases to an amount greater than the penal sum and if that increase is not due to an increase in the maximum accumulation of used or waste tires at the site, the owner or operator must, within 60 days after the increase in the removal cost estimate, either:
    - A) cause the penal sum to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or
    - B) obtain alternate financial assurance in accordance with this Subpart to cover the increase in the removal cost estimate and submit evidence of the alternate financial assurance to the Agency.
  - 4) If the current removal cost estimate increases to an amount greater than the penal sum and if that increase is due to an increase in the maximum accumulation of used or waste tires at the site, the owner or operator must, within 60 days after the increase in the removal cost estimate:

- A) remove the excess tires to meet the current approved removal cost estimate;
  - B) cause the penal sum to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or
  - C) obtain other financial assurance, as specified in this Subpart, to cover the increase in the removal cost estimate and submit evidence of the alternative financial assurance to the Agency.
- g) Terms
- 1) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.
  - 2) The Agency must release the surety by providing the owner or operator and the surety with written authorization for termination of the bond as soon as practicable after any of the following occur:
    - A) an owner or operator substitutes alternate financial assurance that meets the requirements of this Subpart such that the total financial assurance for the site is equal to or greater than the current approved removal cost estimate, without counting the amounts to be released; or
    - B) the Agency releases the owner or operator from the requirements of this Subpart following completion of removal.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.413 Letter of Credit**

- a) An owner or operator may satisfy the requirements of this Subpart by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Section and submitting the letter of credit to the Agency.
- b) The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.
- c) Forms:

- 1) The letter of credit must be on standardized forms prescribed by the Agency.
  - 2) The letter of credit must be accompanied by a letter from the owner or operator, referring to the letter of credit by number, issuing institution and date, and providing, at a minimum, the following information: the Agency designated site number, the name and address of the site, and the amount of funds assured for removal from the site by the letter of credit.
- d) An owner or operator who uses a letter of credit to satisfy the requirements of this Subpart must also establish a standby trust fund. Any amounts drawn by the Agency pursuant to the letter of credit must be deposited in the standby trust fund. The standby trust fund must meet the requirements of a trust fund specified in Section 848.410, except that:
- 1) the owner or operator must submit an originally signed duplicate of the trust agreement to the Agency with the letter of credit; and
  - 2) unless the standby trust is funded pursuant to the requirements of this Section, none of the following are required:
    - A) payments into the trust fund as specified in Section 848.410;
    - B) updating the trust agreement schedule in Section 848.410(c) to show the current approved removal cost estimates;
    - C) annual valuations as required by the trust agreement; or
    - D) notices of nonpayment as required by the trust agreement.
- e) Conditions on which the Agency may draw on the letter of credit:
- 1) The Agency may draw on the letter of credit if the owner or operator fails to perform removal in accordance with the removal plan.
  - 2) The Agency may draw on the letter of credit when the owner or operator does any one or more of the following:
    - A) abandons the site;
    - B) is adjudicated bankrupt;
    - C) within 30 days after the date on which the known final volume of used or waste tires is received, either fails to complete removal or

fails to submit a removal plan that is approved by the Agency in accordance with Section 848.506;

- D) fails to initiate removal when ordered to do so by the Board pursuant to Title VIII of the Act, or when ordered to do so by a court of competent jurisdiction;
  - E) notifies the Agency that it has initiated removal, or initiates removal, but fails to provide removal in accordance with the removal plan; or
  - F) within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that the letter of credit will not be extended for another term, fails to provide additional or substitute financial assurance under this Subpart.
- f) Amount:
- 1) The letter of credit must be issued in an amount at least equal to the current approved removal cost estimate, except as provided in Section 848.407.
  - 2) If the current removal cost estimate decreases, the penal sum may be reduced to the amount of the current approved removal cost estimate following written approval by the Agency.
  - 3) If the current removal cost estimate increases to an amount greater than the credit and if that increase is not due to an increase in the maximum accumulation of used or waste tires at the site, the owner or operator must, within 60 days after the increase in the removal cost estimate, either:
    - A) cause the amount of the credit to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or
    - B) obtain alternate financial assurance in accordance with this Subpart to cover the increase in the removal cost estimate and submit evidence of the alternate financial assurance to the Agency.
  - 4) If the current removal cost estimate increases to an amount greater than the credit and if that increase is due to an increase in the maximum accumulation of used or waste tires at the site, the owner or operator must, within 60 days after the increase in the removal cost estimate:

- A) remove the excess tires to meet the current approved removal cost estimate;
  - B) cause the amount of the credit to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or
  - C) obtain other financial assurance, as specified in this Subpart, to cover the increase in the removal cost estimate and submit evidence of the alternative financial assurance to the Agency.
- g) Term:
- 1) The letter of credit must be irrevocable and issued for a period of at least one year.
  - 2) The letter of credit must provide that, on its current expiration date and on each successive expiration date, the letter of credit will be automatically extended for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner and operator and the Agency, by certified mail, of a decision not to extend the letter of credit for another term. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.
  - 3) The Agency must return the letter of credit to the issuing institution for termination as soon as practicable after any of the following occur:
    - A) an owner or operator substitutes alternate financial assurance that meets the requirements of this Subpart such that the total financial assurance for the site is equal to or greater than the current approved removal cost estimate, without counting the amounts to be released; or
    - B) the Agency releases the owner or operator from the requirements of this Subpart following completion of removal.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 848.415 Self-Insurance for Non-commercial Sites (Repealed)**

(Source: Repealed at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **SUBPART E: TIRE REMOVAL AGREEMENTS**

### Section 848.501 Applicability

- a) The owner or operator of a tire disposal site must obtain written approval from the Agency of a tire removal agreement submitted pursuant to this Subpart unless:
- 1) the owner or operator has entered into a written agreement to participate in a consensual removal action under Section 55.3(c) of the Act~~*the owner or operator has entered into a written agreement to participate in a consensual removal action under subsection (c) of Section 55.3 of the Act*~~ [415 ILCS 5/55.4]; or
  - 2) the owner or operator has received a permit from the Agency pursuant to the requirements of Subtitle G: Waste Disposal for the disposal of solid waste at landfills.
- b) An owner or operator of a tire disposal site may obtain approval of a tire removal agreement for a specific area within a facility; however, the remainder of the facility must be operated under a permit issued by the Agency under 35 Ill. Adm. Code: Subtitle G: Waste Disposal for the disposal of solid waste in landfills or be subject to a consensual removal action under Section 55.3(c) of the Act.
- c) Before disposing of any used or waste tires the owner or operator of a tire disposal site must obtain a permit from the Agency pursuant to the requirements of 35 Ill. Adm. Code: Subtitle G: Waste Disposal for the disposal of solid wastes at landfills.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 848.502 Removal Performance Standard

*The owner or operator of a tire disposal site required to file and receive approval of a tire removal agreement under this Subpart E shall remove used or waste tires from the site in a manner that:*

- a) *minimizes the need for further maintenance;*
- b) *removes all used and waste tires and any residues therefrom; and*
- c) *protects human health during the removal and post removal periods.* [415 ILCS 5/55.4(a)]

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.503 Contents of Proposed Tire Removal Agreements**

- a) A proposed *tire removal agreement submitted to the Agency for approval under this Subpart E shall include the following:*
- 1) *a complete inventory of the tires located on the site;*
  - 2) *a description of how the removal will be conducted in accordance with Section 848.502;*
  - 3) *a description of the methods to be used during removal including, but not limited to, the methods for removing, transporting, processing, storing or disposing of tires and residues, and the offsite facilities to be used;*
  - 4) *a detailed description of other activities necessary during the removal period to ensure that the requirements of Section 848.502 are met; and*
  - 5) *a schedule of completing the removal of tires from the site, as required in Section 848.504. [415 ILCS 5/55.4(b)]*
- b) The owner or operator may propose amendment of the tire removal agreement at any time prior to notification of the completion of partial or final removal of tires from the facility. To request a change in an approved tire removal agreement, an owner or operator shall submit a written request to the Agency. The written request must include a copy of the amended tire removal agreement for approval by the Agency.
- c) Nothing in this Section precludes the owner or operator from removing used or waste tires in accordance with the approved partial or final tire removal agreement.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.504 Time Allowed for Tire Removal**

- a) *Each approved tire removal agreement shall include a schedule by which the owner or operator must complete the removal activities. The total time allowed shall not exceed the following:*
- 1) *one year if the site contains 1,000 tires or less;*
  - 2) *two years if the site contains more than 1,000 tires but less than 10,000 tires;*
  - 3) *five years if the site contains 10,000 or more tire.*

- b) *The owner or operator may apply for an extension of time, no later than 90 days before the end of the time period specified in the agreement. The Agency shall not grant such an extension unless it determines that the owner or operator has proceeded to carry out the agreement with all due diligence. The requested extension of time may not exceed 3 years, and the Agency may approve the request as submitted or may approve a lesser amount of time if the removal activities can be completed within such lesser amount of time. [415 ILCS 5/55.4(d)]*

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.506 Initiation of Tire Removal**

- a) Any owner or operator who is required to obtain financial assurance under this Part must submit a proposed tire removal agreement to the Agency that satisfies Sections 848.502 through 848.505:
- 1) within 30 days after the date on which any tire disposal site or tire storage site receives the known final volume of used or waste tires; or
  - 2) when the owner or operator fails to provide additional or substitute financial assurance, as required in this Part, and to obtain the Agency's written approval of the assurance provided, within 60 days after an increase in the current removal cost estimate.
- b) The owner or operator must begin removal of used and waste tires in accordance with the approved tire removal agreement within 30 days after written Agency approval of the tire removal agreement unless the tire removal agreement specifies otherwise.
- c) The Agency has authority to approve a later date for initiation of tire removal in a tire removal agreement if the owner or operator demonstrates to the Agency that a binding contractual relationship exists under which the owner or operator will remove all used and waste tires from the site within the period specified in Section 848.504.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.507 Certification of Removal Completion**

*Within 60 days after the completion of removal activities under an approved tire removal agreement under this Subpart E, the owner or operator shall submit to the Agency a certification that the site or the affected portion of the site\_ subject to a tire removal agreement has been cleared of tires in accordance with the approved tire removal agreement. [415 ILCS 5/55.4(e)]*

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.508 Agency Approval**

*For a site at which the owner or operator is proposing to proceed with removal under a tire removal agreement, rather than obtaining a permit under 35 Ill. Adm. Code: Subtitle G: Waste Disposal for the disposal of solid waste in a landfill, the Agency shall approve, modify or disapprove a proposed agreement within 90 days of receiving it. If the Agency does not approve the agreement, the Agency shall provide the owner or operator with a written statement of reasons for the refusal, and the owner or operator shall modify the agreement or submit a new agreement for approval within 30 days after receiving the statement. The Agency shall approve or modify the second proposed agreement within 60 days. If the Agency modifies the second proposed agreement, the agreement as modified shall become the approved agreement. [415 ILCS 5/55.4(c)]*

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.509 Board Review**

*Modification of or refusal to modify a proposed tire removal agreement submitted by an owner or operator proposing to proceed with removal is a permit denial for purposes of appeal pursuant to 35 Ill. Adm. Code 105. [415 ILCS 5/55.4(f)]*

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## **SUBPART F: TIRE TRANSPORTATION REQUIREMENTS**

### **Section 848.601 Tire Transportation Prohibitions**

- a) Except as provided in subsection (c), no person shall transport more than 20 used or waste tires in a vehicle at any one time unless the following requirements are met:
  - 1) the person either is registered as a tire transporter with the Agency or an employee of a person that is registered as a tire transporter with the Agency and, in either case, the registration is current, valid, and in effect;
  - 2) the vehicle displays a placard, issued by the Agency, in accordance with the requirements of this Subpart;
  - 3) the portion of the vehicle where the tires are transported is completely separated from the vehicle's passenger compartment; and

- 4) if the person was required to submit an Annual Tire Transportation Report in the immediately preceding year, the person submitted that report to the Agency in accordance with the requirements of Section 848.609.
- b) No person shall provide, deliver or transport used or waste tires to a tire transporter for transport unless the transporter's vehicle displays a placard issued by the Agency under this Subpart.
- c) A person transporting tire carcasses to a tire retreading facility under a bill of lading is exempt from the requirements of this Section and Section 848.607.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.602 Tire Transportation Registrations**

- a) Tire transportation registrations must be submitted on registration forms prescribed by the Agency that, at a minimum, shall require submission of the following information:
  - 1) the name, address, and telephone number of the person seeking registration;
  - 2) a description of the number and types of vehicles to be used, proof of liability insurance for those vehicles, and, if any of the vehicles to be used are required to obtain a certificate of safety under Chapter 13 of the Illinois Vehicle Code [625 ILCS 5], a copy of the current certificate of safety for the vehicle; and
  - 3) an agreement by the person seeking registration that:
    - A) tire loading, transportation, and unloading will be conducted in compliance with all applicable state and federal laws and regulations;
    - B) no used or waste tires will be transported with other wastes on one vehicle if that activity could result in a hazardous combination likely to cause explosion, fire, or release of a dangerous or toxic gas, or in violation of any applicable state or federal law or regulation; and
    - C) the equipment and procedures to be used will be proper for the tire transportation to be safe for the transporters, handlers, and others, and will meet the requirements of all other applicable state and federal laws and regulations.

- b) All tire transporter registrations must be signed by the person seeking registration or by a duly authorized agent of the person seeking registration who has provided the Agency with evidence of his or her authority to sign the registration on behalf of the person seeking registration.
- c) If any information required to be submitted on the registration form changes after the registration is submitted to the Agency, the registrant must provide an amended registration form to the Agency in writing within 30 days after the date the information changes. If the information reflects a change in ownership or a change in vehicle information, a new registration form must be submitted to the Agency.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.603 Agency Approval of Registrations**

- a) Tire transporter registrations are deemed to be filed on the date of initial receipt by the Agency of a properly completed registration form prescribed by the Agency. The Agency must reject any incomplete registration form and notify the person seeking registration that the registration form is incomplete. That person may treat the Agency's notification of an incomplete registration form as a final action denying approval of the registration for purposes of review pursuant to Section 40 of the Act.
- b) If the Agency fails to take final action approving or denying approval of a registration within 90 days from the filing of the completed form, the person seeking registration may deem the registration approval granted for a period of one calendar year commencing on the 91st day after the application was filed.
- c) The Agency is deemed to have taken final action on the date that the notice of final action is mailed.
- d) Before approving a registration, the Agency must consider whether the registration is complete and consistent with the provisions of the Act and Board regulations and may undertake such investigations and request the person seeking registration to furnish such proof as it deems necessary to verify the information and statements made in the registration. If the registration is complete and the approval of it will not cause a violation of the Act or Board regulations, the Agency must approve the registration. Notwithstanding any other provision of this subsection (d), the Agency must deny a person's registration if, within the 5 years immediately preceding the date upon which the registration is filed with the Agency:
  - (1) the person caused or allowed the open dumping of used or waste tires in violation of Section 55(a)(1) of the Act; or

- (2) the Agency has taken or is taking preventive or corrective action pursuant to Section 55.3 of the Act because the person caused or allowed the open dumping of used or waste tires in violation of Section 55(a)(1) of the Act.
- e) In approving tire transporter registrations pursuant to this Subpart, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act and the Board regulations.
- f) The person seeking registration may deem any conditions imposed by the Agency as a denial of approval of the registration for purposes of review pursuant to Section 40 of the Act.
- g) A tire transporter registration approved hereunder is automatically modified to include any relevant change in the Act or Board regulations. The Agency must revise any tire transporter registration issued by the Agency under this Part to make the registration compatible with any such relevant changes and so notify the registrant. Failure of the Agency to issue a revised registration does not excuse the registrant from compliance with any such change.
- h) No tire transporter registration is transferable. A tire transporter registration is personal to the person(s) named in the tire transporter registration.
- i) Violation of any conditions or failure to comply with any provisions of the Act or with any Board regulation are grounds for sanctions as provided in the Act, including, but not limited to, revocation of the registration as herein provided and the denial of applications for renewal.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 848.604 Registration No Defense**

The existence of an approved tire transporter registration under this Subpart does not provide any person with a defense to a violation of the Act or Board regulations, except for transporting used or waste tires without an approved tire transporter registration.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 848.605 Duration and Renewal**

- a) All registrations approved hereunder are effective for a period of two years from the date of approval and are renewable, except as provided in Section 848.603**(b)(4)** and (i).

- b) Applications for registration renewal must be made at least 90 days prior to the expiration date of the registration on the forms prescribed by the Agency.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.606 Vehicle Placarding**

- a) Upon approval of a registration as a tire transporter, the transporter must place, on opposite sides of ~~each vehicle~~~~the vehicles~~, a placard that displays a number issued by the Agency following the words "Registered Tire Transporter: (number)".
- b) Directly adjacent to the words and number, the transporter must display a seal furnished by the Agency that designates the date on which the registration expires.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.607 Tire Tracking Receipts**

- a) Upon receiving used or waste tires, a tire transporter must provide a receipt to the person from whom the used or waste tires are received. The person from whom the used or waste tires are received and the tire transporter must each keep a copy of the receipt. The receipt must include all of the following: the signature of the person from whom the used or waste tires are received; the tire transporter's signature; the name and registration number of the tire transporter; the name, address, and telephone number of the site from which used or waste tires were transported; the date the used or waste tires were transported from the site; the number or weight, in tons, of used or waste tires transported from the site; and the destination(s) of the used or waste tires.
- b) Upon delivering used or waste tires, a tire transporter must obtain a receipt from the site where the used or waste tires were delivered and keep a copy of the receipt. The receipt must include all of the following: the tire transporter's signature; the name and registration number of the tire transporter; the name and location of the site to which used or waste tires were delivered; the signature of the owner or operator of the site to which used or waste tires were delivered; the date the used or waste tires were delivered to the site; and the number or weight, in tons, of used or waste tires delivered to the site.
- c) Tire transporters must maintain at their principal place of business a record of the receipt and disposition of all used or waste tires, including, but not limited to, both:
  - (1) receipts for used or waste tires received by that person; and

- (2) receipts for used or waste tires delivered by that person. In addition, persons delivering used or waste tires to a tire transporter for transport must maintain at their principal place of business a copy of the receipts provided by tire transporters pursuant to subsection (a) ~~of this Section~~.
- d) The tire tracking receipts required under this Section and Section 848.305 shall be on a form prescribed by the Agency.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.608 Annual Tire Transportation Report**

- a) Any person who is required to be registered under this Subpart must submit an Annual Tire Transportation Report to the Agency for each calendar year in which they are required to be registered. The Annual Tire Transportation Report must be in a form ~~and format~~ prescribed by the Agency and must include the Agency designated registration number of the transporter, the name and address of the transporter, and the calendar year for which the report applies.
- b) Information relative to the transportation of used and waste tires by the transporter must be recorded in the Annual Tire Transportation Report, including, but not limited to:
- 1) the number or weight, in tons, of used or waste tires received by the transporter during the calendar year;
  - 2) the number or weight, in tons, of used or waste tires delivered to each site by the transporter during the calendar year; and
  - 3) the number or weight, in tons, of used or waste tires remaining with the transporter at the end of the calendar year.
- c) The Annual Tire Transportation Report must be received by the Agency on or before the March 1 immediately following the end of the calendar year for which the report is submitted.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.609 Retention of Records**

Copies of all records required to be kept under this Subpart shall be retained for three years by the person required to retain the record and shall be made available at the site during the normal business hours of the operator for inspection and photocopying by the Agency.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.610 Certification**

- a) All reports submitted to the Agency as required by this Subpart must be signed by a person designated by the transporter as responsible for preparing and reviewing these documents as part of his or her duties in the regular course of business.
- b) Any person signing a document submitted to the Agency pursuant to this Subpart must make the following certification:

"I certify that I am responsible for preparing and reviewing this document and that this document and all attachments were prepared under my direction or supervision as part of my duties in the regular course of business. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties under Section 44 of the Environmental Protection Act, including the possibility of fine and imprisonment for knowingly submitting false information."

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**SUBPART G: TIRE STORAGE PERMITS****Section 848.701 Tire Storage Permits**

- a) Beginning July 1, 2016, no person shall cause or allow the operation of a tire storage site that contains used tires totaling more than 10,000 passenger tire equivalents, or at which more than 500 tons of used tires are processed in a calendar year, without a Tire Storage Permit issued by the Agency pursuant to this Subpart G. [415 ILCS 5/55(d-5)]
- b) All applications for Tire Storage Permits must be submitted to the Agency at least 90 days before the date on which the permit is required; however, the Agency may waive this requirement in writing, for good cause.
- c) All Tire Storage Permits granted pursuant to this Subpart G remain in effect unless terminated by operation of law pursuant to subsection (d), revoked, superseded, or modified.
- d) If a permittee ceases operation of a tire storage site that is required to be permitted under this Subpart, the permittee must notify the Agency in writing within 15 days after it ceases operation of the site. On the 15th day after the permittee ceases operation of the site, the permit shall be deemed terminated by operation of law.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.702 Application for Tire Storage Permits**

- a) Each application for permit required under this Subpart must contain all data and information that is reasonably necessary for the Agency to determine whether the applicant and tire storage site for which the application is submitted will meet all of the requirements of the Act and regulations adopted pursuant to the Act.
- b) The Agency ~~will~~ may prescribe the form ~~on and format in~~ which all information required under ~~these regulations~~ this Part ~~must~~ shall be submitted.
- c) All permit applications must be signed by the owner and the operator of the tire storage site or their duly authorized agents. Applications signed by agents must be accompanied by evidence of authority to sign the application.
- d) All permit applications must be submitted on the form prescribed by the Agency and mailed or delivered to the address designated by the Agency and must be sent by registered or certified mail, return receipt requested.
- e) An application for permit is not deemed filed until the Agency has received, at the designated address, all information, documents, and authorization, ~~using in the permit application form prescribed by the Agency and format and providing with~~ the content required by ~~these rules~~ this Part. However, if the Agency fails to notify the applicant within 45 days after the receipt of an application, that the application is incomplete, and of the reasons, the application shall be deemed to have been filed on the date received by the Agency. An applicant may deem the Agency's notification that the application is incomplete as a denial of the permit for purposes of review pursuant to Section 40 of the Act.
- f) If the Agency fails to take final action on the application within 90 days from the filing ~~thereof~~ of the application, the applicant may deem the permit granted on the 91st day after the application was filed.
- g) Any applicant for a permit may waive the requirement that the Agency ~~must~~ take final action within 90 days from the filing of the application.
- h) The Agency must send all notices of final action by registered or certified mail, return receipt requested. Final action is deemed to have taken place on the date that the notice is mailed.
- i) Decisions regarding permit applications may be appealed to the Board in accordance with Section 40 of the Act.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.703 Permit Conditions**

- a) As provided in Sections 39(a) and 55(d-5) of the Act, the Agency may impose such conditions in a permit as may be necessary to accomplish the purposes of the Act, and as are not inconsistent with regulations promulgated by the Board, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with the Act and regulations and standards adopted under the Act.
- b) The applicant may deem any condition imposed by the Agency as a denial of the permit for purposes of review pursuant to Section 40 of the Act.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.704 Standards for Issuance of Tire Storage Permits**

The Agency must not issue any permit unless the applicant submits adequate proof that the tire storage site either will be operated so as not to cause any violation of the Act or rules adopted under the Act or has been granted a variance pursuant to Title IX of the Act.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.705 Permit No Defense**

The existence of a permit issued under this Subpart does not constitute a defense to a violation of the Act or this Part, except for operation without a permit.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.706 Permit Revision**

- a) The Agency must revise any permit issued by it to make the permit compatible with any relevant new regulations adopted by the Board.
- b) The permittee may request modification of a permit at any time by filing, pursuant to Section 848.702, an application reflecting the modification requested.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 848.707 No Transfer of Permits**

No permit issued under this Subpart is transferable.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.708 Permit Revocation**

A violation of any permit condition or failure to comply with any rule or regulation of this Part is grounds for sanctions as provided in the Act, including revocation of permit.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.APPENDIX A Financial Assurance Forms (Repealed)**

**Section 848.ILLUSTRATION A Trust Agreement (Repealed)**

(Source: Repealed in 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.Appendix A Financial Assurance Forms**

**Section 848.Illustration B Certificate of Acknowledgment (Repealed)**

(Source: Repealed at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.Appendix A Financial Assurance Forms**

**Section 848.Illustration C Irrevocable Standby Letter of Credit (Repealed)**

(Source: Repealed at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.Appendix A Financial Assurance Forms**

**Section 848.ILLUSTRATION D Owner or Operator's Bond Without Surety (Repealed)**

(Source: Repealed at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 848.Appendix A Financial Assurance Forms**

**Section 848.ILLUSTRATION E Owner or Operator's Bond With Parent Surety (Repealed)**

(Source: Repealed in 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

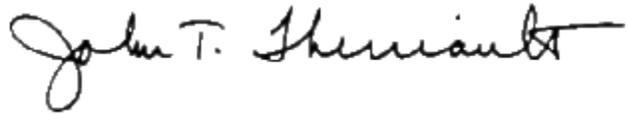
**Section 848.Appendix A Financial Forms**

**Section 848.ILLUSTRATION F Letter from Chief Financial Officer (Repealed)**

(Source: Repealed at 39 Ill. Reg.\_\_\_\_\_, effective \_\_\_\_\_)

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 4, 2015, by a vote of 5 to 0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

---

John T. Therriault, Clerk  
Illinois Pollution Control Board