

ILLINOIS POLLUTION CONTROL BOARD
September 3, 2015

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

Adopted Rule. Final Order.

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

Today the Board adopts 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 the handling of used and waste tires including regulations regarding permitting and financial assurance. 415 ILCS 5/55.2(b-5) (2014).

In an order dated January 8, 2015, the Board accepted the rulemaking proposal, filed by the Illinois EPA 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. On June 4, 2015, the Board directed the Clerk to submit the proposed amendments to the Joint Committee on Administrative Rules (JCAR) for second notice review under the Illinois Administrative Procedure Act. Management of Used and Waste Tires: Proposed Amendments to 35 Ill. Adm. Code 848, R15-19, slip op. at 20 (June 4, 2015).

In this opinion and order, the Board first repeats a brief procedural history of this rulemaking from its second notice opinion and order of June 4, 2015 along with background information on the Illinois EPA's proposal. The opinion summarizes the Board's proposed amendments to Part 848 and explains changes to the amendments that resulted from JCAR's review. Finally, the order sets forth the text of the adopted amendments to Part 848.

PROCEDURAL HISTORY

The Illinois EPA filed this rulemaking proposal with the Board on December 22, 2014. The proposal included the Illinois EPA's statement of reasons (SR) and 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. On June 4, 2015, the Board directed the Clerk to submit the proposed amendments to JCAR for second notice review under the Illinois Administrative Procedure Act. *See* 5 ILCS 100/5-35, 5-40 (2014).

In the June 4, 2015 order, the Board found that the proposed rules are technically feasible and economically reasonable. The Board stated that:

[t]he 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.

Management of Used and Waste Tires: Proposed Amendments to 35 Ill. Adm. Code 848, R15-19, slip op. at 20 (June 4, 2015).

At its July 14, 2015 meeting, JCAR issued its Certificate of No Objection to the proposed rulemaking.

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.

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. 415 ILCS 5/55, 55.2, 55.6 (2014). As noted in the January 8 and February 5, 2015 Board orders, new Section 55.2(b-5) of the Act 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).

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. 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 (i.e., 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.*

SUMMARY OF THE ADOPTED RULE

The rules adopted today 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. Below, the Board summarizes the adopted rule, section by section focusing on changes to the rule language proposed by JCAR since the second notice opinion and order on June 4, 2015. The Board omits some sections of the rule from the discussion, below, where amendments are non-substantive in nature, the Illinois EPA's proposal was adopted by the Board at second notice, and no change was recommended by JCAR after the Board's June 4, 2015 second notice opinion and order. Likewise, some grammatical and format changes to the rule language are not discussed below.

Subpart A: General

Applicability, Definitions, and Incorporation by Reference

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 Illinois EPA 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 agreed with this change, and 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 Illinois EPA 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 used the term "accepted" in its second notice.

Finally, as a result of testimony at the March 5, 2015 hearing, the Illinois EPA proposed eliminating the exemption for shredded or sliced used or waste tires that appeared in Section 848.101(h). In post-hearing comments, Illinois EPA stated 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 agreed that shredded or sliced used tires also present a risk to the public health, and therefore included this change in the second notice rule language.

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 appeared in italics in the second-notice rule language to reflect that it was taken from the Act. See 415 ILCS 5/54.11 (2014). The definition of "tire storage site" and "used tire" were amended to reflect statutory changes while the definition of "waste tire" was amended to be more inclusive. SR at 7-8; Proposal at 9.

Section 848.104 of the first-notice rule language deleted 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 848.¹ JCAR reinserted the definitions of “tire storage unit” and “vector” during its review of the Board’s second notice order because these are statutory definitions taken from the Act. The Board’s adopted rule, therefore, also includes the definitions of “tire storage unit” and “vector.”

Estimating the Weight of Used Tire Accumulations

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. Today the Board adopts this provision as proposed by the Illinois EPA.

Subpart B: Management Standards

Applicability and Requirements

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 applied 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 explained 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.” PC at 5-6. Striking the proposed exemptions found in Sections 848.201(b) and 848.201(c), the Illinois EPA cited 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 agreed at second notice, that tire retreading and tire stamping and die cutting facilities pose similar risks to other used tire storage facilities. The final rule, therefore, does not contain exemptions for tire retreading and tire stamping and die cutting facilities.

¹ 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 with Illinois EPA's proposal. Proposal at 13-18. For example, the Illinois EPA proposed deleting Section 848.202(a), which 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 set 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 explained 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 marked a change from a threshold of 500 or more used or waste tires in Part 848. SR at 10. The Illinois EPA proposed 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.* The Board, today, adopts the rules as proposed by Illinois EPA.

Section 848.202(d) of the Illinois EPA's proposal set 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 proposal reflected a change from requirements based on a number of tires rather than weight. *Id.*; SR at 10-11. This subsection requires 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, set 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, Illinois EPA 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 found the clarifications beneficial to the rule at second notice, and adopts them as final.

Contingency Planning and Emergency Response

Section 848.203 of the Illinois EPA's proposal contained 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 provided that the 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 response to 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 comment period 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. PC 8-9. The Board agreed with including the precautions against mosquitos and disease vectors in the contingency plan, incorporated them into the rule language at second notice, and today adopts them as final.

Storage of Tires Within Buildings

Section 848.204 addresses 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 changed the threshold for heightened precautions for indoor storage from 500 tires to "more than 60 tons," made the local fire department the only option for consultation on a tire storage plan, and required 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 agreed with the language change and included it in the second-notice rule language, and adopts it as final.

Pesticide Treatment

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. Today, the Board adopts the rule language as proposed by Illinois EPA.

Subpart C: Recordkeeping and Reporting

Applicability

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 made 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) included 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 agreed with the change suggested by Illinois EPA at second notice. Therefore, the final version of Section 848.301(b) exempts all tire retreading facilities from recordkeeping and reporting and Section 848.301(c) is deleted from the final rule.

Daily Tire Record and Annual Tire Summary

As proposed at first notice, Section 848.302 required 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, in Section 848.303(b). Information about the tires burned or combusted and tires remaining at the site at the end of the day was 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 agreed with Illinois EPA's proposed, nonsubstantive changes, incorporated those changes into its second notice, and today adopts them as final.

Tire Tracking Receipts, Certification, and Retention of Records

Section 848.305 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.* 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.

Section 848.306 sets out the certification for any person submitting a document to the Illinois EPA under Part 848. Proposal at 36. Section 848.307 requires that records be maintained for three years, a requirement moved from Section 848.305 of the existing regulations. Today the Board adopts these provisions substantially unchanged from Illinois EPA's proposal.

Subpart D: Financial Assurance

Scope and Applicability

Section 848.400 sets out who must provide financial assurance and then exempts other owners and operators from the financial assurance requirements. 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 adopted the change for second notice, and now as a part of the final rule.

The exemptions to financial assurance requirements are defined by 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 more than one notice of violation of Section 55 of the Act in a calendar year. Proposal 37-38; SR at 16.

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, adopted by the Board at second notice, 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.*

Maintaining Financial Assurance and Release of Financial Institution

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, at first notice, due to the elimination of self-insurance as a method of financial assurance. SR at 16.

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) Illinois EPA’s release of the owner or operator financial assurance due to the completion of tire removal. Proposal at 39.

Removal Cost Estimate

Changes to Section 848.404(a) include adding 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) 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. The Board adopted the aforementioned changes at second notice and includes them in the final rule.

Mechanisms for Financial Assurance

Proposed Section 848.406 adds “a surety bond guaranteeing payment,” but deletes self-insurance from the list of mechanisms for financial assurance. Proposal at 41; SR at 17. Language is added to Section 848.407 allowing the use of a standby trust for more than one financial assurance mechanism. Proposal at 41; SR at 18. Section 848.408 is changed to eliminate 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 proposed

eliminating this provision because it is “impractical to administer.” SR. at 18. The Board agrees with the changes to these sections of Part 848, and adopts them as final.

Trust Fund

The changes to Section 848.410 make 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, 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. Section 848.410(c) sets out the specific information required in the trust agreement. Section 848.410(d) includes a shortened 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 states 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.*

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.* 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 proposed 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. The Board also asked Illinois EPA 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 to limit the Illinois EPA’s response time to “not more than 120 days following the Agency’s receipt of the request” for reimbursement. PC at 15. The Board adopted that change at second notice, limiting the amount of time that the Illinois EPA may hold removal action bills.

Surety Bond Guaranteeing Payment

Section 848.411 of this rulemaking is an entirely new section adding a surety bond guaranteeing payment to the list of mechanisms for financial assurance under proposed Section 848.406. Proposal 45-49; SR at 18. This 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 Illinois EPA. 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) 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 Illinois EPA releases the owner or operator following completion of removal. Proposal at 48-49. Today, the Board adopts this new provision as a part of the final rule.

The remainder of Subpart D, including Sections 848.413 and 848.415 are unchanged from the Board’s second notice opinion and order; therefore, no further discussion of those sections is warranted in this final opinion. Likewise, Subpart E has undergone no change since the Board’s second notice opinion and order.

Subpart F: Tire Transportation Requirements

Tire Transportation Prohibitions

A number of substantive changes are adopted in Subpart F of Part 848. Registration for hauling 20 or more used tires in Section 848.601(a) is changed 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) exempts the hauling of tire carcasses to a tire retreading facility, pursuant to a bill of lading, from the registration and placard requirements. *Id.* At second notice, the Board incorporated a reference to Section 848.607 into 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. Today, the Board adopts the rule language, including the reference to Section 848.607.

Tire Transportation Registrations Generally

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. This section requires registered persons to update Illinois EPA with: changes in information submitted on registration forms; a change in vehicle information; or a change in ownership. Proposal at 63.

Section 848.603 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) provides for Illinois EPA 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. Likewise, Sections 848.604, 848.605, and 848.606 all include changes that reflect the registration changing from vehicle registration to registration of persons hauling used or waste tires. Today, the Board adopts these sections as a part of the final rule, substantially the same as proposed by Illinois EPA.

Tire Tracking Receipts

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 whom the transporter receives used or waste tires must each retain a tire tracking receipt containing specified information. *Id.* at 65-66. Likewise, 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. The Board adopts these new requirements as a part of the final rule.

Annual Tire Transportation Report, Retention of Records, and Certification

New Section 848.608 mandates that registered tire transporters submit an Annual Tire Transportation Report to the Illinois EPA on a form prescribed by Illinois EPA, the information that must be in the report, and the date by which the report must be submitted to Illinois EPA. Proposal at 66-67. Section 848.609 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 Illinois EPA. *Id.* at 67. Section 848.610 requires that all reports submitted to Illinois EPA be signed by a person designated by the transporter and sets out the certification statement that must be made when submitting a document to the Illinois EPA. *Id.* The Board adopts these new provisions of Part 848 as a part of this final rule.

Subpart G: Tire Storage Permits

Tire Storage Permits

New Section 848.701 contains the provisions required by Public Act 98-656. 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.* Section 848.701(b) demands that tire storage permit applications 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.* The Board adopts as final the rule language creating the storage permit program.

Application for Tire Storage Permits

Section 848.702 includes the tire storage permit application and application process. Proposal at 68-69. First, Subsections 848.702(a) and (b) indicate what information is required in the application. *Id.* at 68. Subsections (c) and (d) indicate that applications must be signed by a person authorized to do so and be sent to the address provided by Illinois EPA. *Id.* Subsections 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 Illinois EPA's deadline to act. *Id.* at 68-69. Finally, 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. The Board adopts as final the rule language including, consistent with changes made at second notice, that applications must be submitted on Illinois EPA's form.

Permit Conditions and Standards for Issuance

Section 848.703 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. The Board adopts this section largely as proposed by Illinois EPA.

Other Permit Provisions

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 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. 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.* The Board adopts these sections of the rule substantially as they were proposed by Illinois EPA.

Appendices

The Illinois EPA proposed repealing the Financial Assurance Forms section of the existing rule so that Illinois EPA could make changes to the prescribed forms necessary for compliance with the rule, without amending the regulations. SR at 20. JCAR, however, insisted on maintaining some of the forms, albeit updated, as appendices to the regulation. Therefore, the Board adopts the rule with Appendix A, which contains three illustrations. Illustration A is the Trust Agreement form, pursuant to Section 848.410 of the rule. Illustration B is the Surety Bond Guaranteeing Payment form, pursuant to Section 848.411. Illustration C is the Irrevocable Standby Letter of Credit form, pursuant to Section 848.413. JCAR received these forms from the Illinois EPA for incorporation into the rule text.

CONCLUSION

The Board adopts these changes to Part 848 of the Board's regulations for final notice pursuant to the Illinois Administrative Procedures Act. 5 ILCS 100/5-5 *et seq.* (2014). The Board finds the final rule is economically reasonable and technically feasible for the protection of the public health from the threats associated with improper management of used and waste tires. The final rule minimizes impacts on the market for those tires and the businesses that convert used or waste tires into marketable commodities.

ORDER

The Board directs the Clerk to cause the filing of the following rule with the Secretary of State for publication as an adopted rule in the *Illinois Register*. Additions to existing rule text appear underlined, and proposed deletions appear 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
<u>848.106</u>	<u>Estimating the Weight of Used and Waste Tire Accumulations</u>

SUBPART B: MANAGEMENT STANDARDS

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

SUBPART C: RECORDKEEPING AND REPORTING

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

SUBPART D: FINANCIAL ASSURANCE

Section	
848.400	Scope and Applicability
848.401	<u>Maintaining</u> Upgrading 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 <u>Mechanism</u> Mechanism for Multiple Sites
848.410	Trust Fund
<u>848.411</u>	<u>Surety Bond Guaranteeing Payment</u>
848.413	Letter of Credit
848.415	Self-Insurance for Non-commercial Sites (<u>Repealed</u>)

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
<u>848.607</u>	<u>Tire Tracking Receipts</u>
<u>848.608</u>	<u>Annual Tire Transportation Report</u>
<u>848.609</u>	<u>Retention of Records</u>
<u>848.610</u>	<u>Certification</u>

SUBPART G: TIRE STORAGE PERMITS

<u>Section</u>	
<u>848.701</u>	<u>Tire Storage Permits</u>
<u>848.702</u>	<u>Application for Tire Storage Permits</u>
<u>848.703</u>	<u>Permit Conditions</u>
<u>848.704</u>	<u>Standards for Issuance of Tire Storage Permits</u>
<u>848.705</u>	<u>Permit No Defense</u>
<u>848.706</u>	<u>Permit Revision</u>
<u>848.707</u>	<u>No Transfer of Permits</u>
<u>848.708</u>	<u>Permit Revocation</u>

848.APPENDIX A	"Financial Assurance Forms"
848.ILLUSTRATION A	"Trust Agreement"
848.ILLUSTRATION B	" <u>Surety Bond Guaranteeing Payment</u> Certification of Acknowledgement "
848.ILLUSTRATION C	"Irrevocable Standby Letter of Credit"
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 R98-9 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 Illinois Environmental Protection Act [415 ILCS 5/55] (~~Ill. Rev. Stat. 1989, ch. 111½, par. 1055~~) 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) ~~Altered tires which have been chopped, shredded or processed, such that the individual dimensions of height, length and width of the tire product are two inches or less (an industry standard known as "two inch minus");~~
- a)b) converted tires manufactured to an exact specification and supplied to a purchaser under a contract for purchase or other sale;~~Converted, new or reprocessed tires; or~~
- b)e) new or reprocessed tires;~~Reused tires which have been altered to prevent the accumulation of water.~~
- c) reused tires altered to prevent the accumulation of water;
- d) used or waste tires exempted pursuant to Section 55.1 of the Act;
- e) used tires located at a tire storage site at which not more than 50 used tires are located at any one time;
- f) used or waste tires accepted by an owner or operator of a sanitary landfill in accordance with Section 55 of the Act and in accordance with a solid waste permit issued by the Agency; or
- g) 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 ~~shall~~ have the meanings given in this Section herein. Words and terms not defined in this Section shall have the meanings otherwise set forth in the Act and 35 Ill. Adm. Code 101. regulations adopted thereunder.

"Act" means the ~~Illinois~~ 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:

located indoors and between each storage pile and all other between storage piles, or groups of storage piles, combustible materials, and indoor

activities at the site that present a risk of fire; and

maintained in a manner that provides for unobstructed storage pile access, movement of equipment suitable for housekeeping operations, visual inspection of storage piles, piling areas and initial fire fighting 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] ~~"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.~~ (Section 54.01 of the Act)

"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] ~~"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 ARE THEMSELVES 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.~~ (Section 54.02 of the Act)

"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] ~~"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. (Section 54.03 of the Act)~~

"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] ~~"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. (Section 54.04 of the Act)~~

"Firebreak" means an accessible, clear space that is:

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

maintained in a manner that provides for unobstructed storage pile access, movement of equipment, visual inspection of storage piles, and firefighting 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] ~~"NEW TIRE" MEANS A TIRE WHICH HAS NEVER BEEN PLACED ON A VEHICLE WHEEL RIM. (Section 54.05 of the Act)~~

"Passenger tire equivalent" or "PTE" is a conversion factor for changing numbers of tires to weight. It is calculated by dividing the total weight of passenger tires, in pounds, by 22.5 pounds (the average weight of passenger and lightweight tires).

"Processing" means the altering, converting or reprocessing of used or waste tires. [415 ILCS 5/54.06] ~~"PROCESSING" MEANS THE ALTERING, CONVERTING OR REPROCESSING OF USED OR WASTE TIRES. (Section 54.06 of the Act)~~

"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. [415 ILCS 5/54.06(a)] ~~"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. (Section 54.06(a) of the Act)~~

"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] ~~"REPROCESSED TIRE" MEANS A USED TIRE WHICH HAS BEEN RECAPPED, RETREADED OR REGROOVED AND WHICH HAS NOT BEEN PLACED ON A VEHICLE WHEEL RIM. (Section 54.07 of the Act)~~

"Retread" or "Retreading" means the process of attaching tread to a tire carcassthe casing of used tires.

"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] ~~"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. (Section 54.08 of the Act)~~

"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] ~~"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. (Section 54.09 of the Act)~~

"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" 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. (Section 54.10 of the Act)~~

"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 CARCASS" MEANS THE INTERNAL PART OF A USED TIRE CONTAINING THE PLYS, BEADS, AND BELTS SUITABLE FOR RETREAD OR REMANUFACTURE. (Section 54.10(a) of the Act)~~

"Tire derived fuel" means a product made from used tires to exact specifications of a system designed to accept a tire derived fuel as a primary or supplemental fuel source. [415 ILCS 5/54.10b] ~~"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. (Section 54.10(b) of the Act)~~

"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 RETREADER" MEANS A PERSON OR FIRM THAT RETREADS OR REMANUFACTURES TIRES. (Section 54.11(a) 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:

the site at which the tires were separated from the vehicle wheel rim;

the site where the used tires were accepted in trade as part of a sale of new tires;

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

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 STORAGE SITE" MEANS A SITE WHERE USED TIRES ARE STORED OR PROCESSED, OTHER THAN THE SITE AT WHICH THE TIRES WERE SEPARATED FROM THE VEHICLE WHEEL RIM, THE SITE WHERE THE USED TIRES WERE ACCEPTED IN TRADE AS PART OF A SALE OF NEW TIRES, OR A SITE AT WHICH BOTH NEW AND USED 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 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. (Section 54.12 of the Act)~~

"Tire storage unit" means a pile of tires or a group of piles of tires at a storage site. [415 ILCS 5/54.12a]

~~"TIRE STORAGE UNIT" MEANS A PILE OF TIRES OR A GROUP OF PILES OF TIRES AT A STORAGE SITE. (Section 54.12(a) of the Act)~~

"Tire transporter" means a person who transports used or waste tires in a vehicle. [415 ILCS 5/54.12b] ~~"TIRE TRANSPORTER" MEANS A PERSON WHO TRANSPORTS USED OR WASTE TIRES IN A VEHICLE. (Section 54.12(b) of the Act)~~

"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 that is not mounted on a vehicle and any portion of such a tire. [415 ILCS 5/54.13] ~~"USED TIRE" MEANS A WORN, DAMAGED OR DEFECTIVE TIRE WHICH IS NOT MOUNTED ON A VEHICLE WHEEL RIM. (Section 54.13 of the Act)~~

"Vector" means arthropods, rats, mice, birds or other animals capable of carrying disease-producing organisms to a human or animal host. "Vector" does not include animals that transmit disease to humans only when used as human food. [415 ILCS 5/54.14] ~~"VECTOR" MEANS ARTHROPODS, RATS, MICE, BIRDS OR OTHER ANIMALS CAPABLE OF CARRYING DISEASE-PRODUCING ORGANISMS TO A HUMAN OR ANIMAL HOST. "VECTOR" DOES NOT INCLUDE ANIMALS THAT TRANSMIT DISEASE TO HUMANS ONLY WHEN USED AS HUMAN FOOD. (Section 54.14 of the Act)~~

"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] ~~"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. (Section 54.15 of the Act)~~

~~*"Waste tire" means a used tire that has been disposed of. [415 ILCS 5/54.16]*
WASTE TIRE" MEANS A USED TIRE THAT HAS BEEN DISPOSED OF.
(Section 54.16 of the Act)~~

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

Section 848.105 Incorporation by Reference

- a) The Board incorporates the following ~~document~~documents by reference:
- 1) ~~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. National Consensus Standard, NFPA 231D (1989) by reference.~~
 - 2) ~~49 CFR 571.117 (1989).~~
 - 3) ~~49 CFR 574 (1989).~~
 - 4) ~~"Accounting Standards, General Standards", 1988/89 Edition, as of June 1, 1988, available from the Financial Accounting Standards Board, 401 Merrit 7, P.O. Box 5116, Norwalk, CT 06856-5116.~~
 - 5) ~~"Auditing Standards" — Current Text, August 1, 1990 Edition, available from the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, NY 10036.~~
- 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 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 tire 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 tire 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).

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

SUBPART B: MANAGEMENT STANDARDS

Section 848.201 Applicability

a) Owners and operators of any tire storage site and the owners and operators of any tire disposal site are subject to this Subpart. This Part does not apply to used and waste tires exempted pursuant to Section 55.1 of the Act.

- b) ~~Owners and operators of tire storage sites and tire disposal sites whose operations are not specifically exempted by subsections (c) through (f) shall:~~
- 1) ~~Meet the requirements of this Part by January 1, 1992 if used or waste tires were disposed of or stored prior to January 1, 1992; or~~
 - 2) ~~Meet the requirements of this Part prior to storing or disposing any used or waste tires at the site if the site first accepts tires for storage or disposal after January 1, 1992.~~
- e) ~~Tire storage sites and tire disposal sites where less than 50 used or waste tires are stored at the site are exempted from the requirements of this Part. However, the prohibition of Section 55 of the Act do apply to such sites.~~
- d) ~~This Part does not apply to used or waste tires disposed in permitted areas of landfills permitted by the Agency pursuant to 35 Ill. Adm. Code: Subtitle G: Waste Disposal. Used or waste tires stored at a landfill permitted pursuant to 35 Ill. Adm. Code: Subtitle G: Waste Disposal are subject to the requirements of this Part.~~
- e) ~~Owners or Operators who comply with the requirements of this Part are not subject to the provisions of 35 Ill. Adm. Code 849.~~
- f) ~~Used or waste tires which have been altered by chopping, shredding or slicing, and stored at the site where such tires are burned as fuel, are exempted from the requirements of this Part.~~

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

Section 848.202 Requirements

- a) ~~Unless exempted by Section 848.201, owners and operators of tire storage sites and tire disposal sites shall meet the requirements of this Section. These requirements shall apply to all used or waste tires located at the site, including altered tires, converted tires and reprocessed tires.~~
- a)b) Owners and operators of any siteAt sites at which more than 50 used or waste tires are located at any one time must~~the owner or operator shall~~ 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 in this subsection (a)(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:
 - A) is no more than 10 feet high by 50 feet wide by 100 feet long; and
 - B) 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 (c)(1)(C).
- 6) All activities at the site that present a risk of fire must be conducted either:
 - A) within a building and in accordance with Section 848.204(c)(4); or
 - B) outdoors and separated from all used or waste tires by at least 250 feet.
- ~~1) Used or waste tires shall not be placed on or accumulated in any pile outside of any building unless the pile is separated from all other piles by no less than 25 feet and aisle space is maintained to allow the unobstructed movement of personnel and equipment.~~
- ~~2) Used or waste tires shall not be accumulated in any area located outside of any building unless the accumulation is separated from all buildings, whether on or off the site, by no less than 25 feet.~~
- ~~3) Used or waste tires shall not be placed on or accumulated in any pile unless the pile is separated from all potential ignition sources, including cutting and welding devices, and open fires, by not less than 250 feet or all such activities are carried out within a building.~~
- ~~4) Used or waste tires shall be drained of water on the day of generation or receipt.~~

- 5) ~~Used or waste tires received at the site shall not be stored unless within 14 days after the receipt of any used tire the used tire is altered, reprocessed, converted, covered or otherwise prevented from accumulating water. All used and waste tires received at the site before June 1, 1989, shall be altered, reprocessed, converted, covered or otherwise prevented from accumulating water by January 1, 1992.~~
 - 6) ~~*Used or waste tires shall not be abandoned, dumped or disposed on private or public property in Illinois, except in a landfill permitted by the Agency pursuant to 35 Ill. Adm. Code 807 or 811. (Section 55(a)(5) of the Act)*~~
 - 7) ~~Used or waste tires shall not be accepted from a vehicle in which more than 20 tires are loaded unless the vehicle displays a placard issued by the Agency under Subpart F.~~
 - 8) ~~Tires shall not be accumulated in an area if the grade of the ground surface exceeds two percent slope unless the requirements of subsection (d)(3) are met.~~
- b) In addition to the requirements set forth in subsection (a)(b), owners and operators of any site at which more than 60 tons of used or waste tires are located at any one time must the owner or operator shall comply with the following requirements at sites at which more than 500 used or waste tires are located.
- 1) The A contingency planning and emergency response requirements of Section 848.203 must be met plan which meets the requirements of Section 848.203 shall be maintained.
 - 2) The recordkeeping and reporting requirements of Subpart C must shall 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. Used or waste tires shall not be placed on or accumulated in any pile unless the pile is separated from grass, weeds, brush, over-hanging tree limbs and similar vegetative growth by no less than 50 feet.
 - 4) ~~Used or waste tires shall not be placed on or accumulated in any tire storage unit unless the unit is no more than 20 feet high by 250 feet wide by 250 feet long. In determining the width or length of any tire storage~~

~~unit the aisle space between any piles within the unit shall be included.~~

- 5) ~~Used or waste tires shall not be placed or accumulated in any tire storage unit unless one of the following requirements is met:~~
- A) ~~The tire storage unit is separated from all buildings, whether located on or off the site, and all other tire storage units by an earthen berm that is no less than 1.5 times the maximum height of any tire pile within the storage unit; or~~
 - B) ~~The tire storage unit is separated from all buildings, whether located on or off the site, and all other tire storage units by a separation distance that is not less than the distance identified by the following:~~

~~Required Separation Distances
From Tire Storage Units (in feet)~~

		Tire Storage Unit Height			
		8	12	16	20
Unit Face Dimensions	25	56	67	77	85
	50	75	93	107	118
	100	100	128	146	164
	150	117	149	178	198
	200	130	167	198	226
	250	140	181	216	245

~~c)d) In addition to the requirements set forth in subsections (a)(b) and (b)(c), owners and operators of any site at which more than 125 tons of used or waste tires are located at any one time must the owner or operator shall comply with the following requirements; at sites at which more than 10,000 used or waste tires are located.~~

- 1) No used or waste tires shall be placed or accumulated outside of a building or fully enclosed container, unless:
 - A) theThe area of the site where used or waste tires are stored in an areashall be completely surrounded by fencing that is:
 - i) at least 6 feet high; and
 - ii) in good repair; which is not less than 6 feet in height.

- B)2) the entrances~~Entrance~~ to the area where the used or waste tires are located ~~are~~ shall be controlled at all times by an attendant, locked ~~entrances~~~~entrance~~, television monitors, controlled roadway access or other equivalent mechanisms;:-
- C)3) ~~the~~The area of the site where used or waste tires are stored shall be completely surrounded by an earthen berm or another walled, impermeable, aboveground ~~other~~ structure that is:
- i) not less than 2 feet in height;:- and
 - ii) capable of containing runoff resulting from tire fires;:- and
 - iii) ~~crossed by a stabilized roadway at not 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~~ accessible by fire fighting equipment, except that the owner or operator shall provide a means for access through or over the berm or other structure.
- 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 (a)(2).

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

Section 848.203 Contingency Planning and Emergency ResponsePlan

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

- a) ~~If an owner or operator of a tire storage site or tire disposal site is required by Section 848.202 to have a contingency plan under this Section, the owner or operator must meet the contingency plan requirements of this Section.~~

- a) ~~b)~~ establish and maintain, for each site that is subject to the requirements of this Section, a contingency plan that:
- 1) minimizes~~must be designed to minimize~~ 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 and from disease spreading mosquitoes and other nuisance organisms which may breed in water accumulations in used or waste tires.~~
 - 2) is~~The provisions of this plan must be~~ carried out immediately whenever there is a fire or evidence of mosquito production in used or waste tires;~~or run-off resulting from a tire fire, or evidence of mosquito production in used or waste tires.~~
 - 3) describes~~The contingency plan must describe~~ the actions site personnel must take in response to fires, run-off resulting from fires, and mosquito breeding in used or waste tires;~~fires, run-off resulting from tire fires, and mosquito breeding in used or waste tires.~~
 - 4) describes~~This contingency plan must include~~ evacuation procedures, including, but not limited to, for site personnel which describe signals to be used to begin evacuation, signals, primary evacuation routes, and alternate evacuation routes to be used when~~(in cases where the primary routes could be blocked; by fire).~~ The contingency plan must include provisions for pesticide application or other measures for control of mosquito breeding in used and waste tires.
 - 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~~A~~ copy of the contingency plan and all revisions to the plan must be maintained at the site at all times and make the plan available for inspection and photocopying by the Agency during normal business hours;~~and submitted to the local fire departments, police departments, the Agency, and state and local emergency response teams that may be called upon to provide emergency service.~~
- e) review and amend the~~The~~ contingency plan must be reviewed and amended 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 increases the potential for a fire at the site or the release of run-off from a fire at the site; if the plan fails in an emergency or
 - 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~~At~~ all times, the primary emergency coordinator or an alternate emergency coordinator is, there must be at least one employee, either on the site premises or on call; that the primary , with responsibility for coordinating all emergency response measures. This emergency coordinator and alternate emergency coordinators are must be 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 . In addition, this person must 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 ~~or~~ operators of any tire storage sites or any tire disposal sites who store used or waste tires within buildings ~~must shall~~ meet the requirements of this Section.
- b) No used ~~Used~~ or waste tires shall ~~may~~ 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 ~~which~~ are impermeable to precipitation; and
 - 4) the building is not a single family home or other a-residential buildingdwelling.
- c) In addition to the requirements set forth in subsection (b), if more than 60 tons of

~~500 or more used or waste tires are located at any one time at the site stored within a building, then the owners and operators of the site must~~ owner or operator shall:

- 1) ~~develop a tire storage plan~~ 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 ~~or the state fire marshal meeting the following requirements:~~
 - A) ~~takes into consideration~~ the plan shall be developed by considering the type of building to be used for tire storage; ~~(e.g., i.e. warehouse or former grain elevator);~~ and the type of used or waste tires being stored; ~~(e.g., i.e. whole or shredded);~~
 - B) ~~identifies, at a minimum,~~ the plan shall include, but not be limited to: the tire storage arrangement; aisle spacing ~~aisle space if necessary;~~ clearance distances between storage ~~fire piles and the building walls and ceiling, unit heaters, furnaces, ducts, duct furnaces and sprinkler deflectors;~~ and points of access for firefighting ~~to fire fighting~~ 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 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." ~~a copy of the tire storage plan shall be filed with the Agency within 60 days of the effective date of this Part and the plan requirements shall be implemented within 14 days of filing the tire storage plan with the Agency;~~
 - 2) meet the contingency planning and emergency response requirements ~~have and maintain a contingency plan which meets the requirements of Section 848.203; and~~
 - 3) meet the recordkeeping and reporting requirements of Subpart C; ~~and~~
 - 4) comply with the NFPA 51B standard for fire prevention during welding, cutting, and other hot work.
- d) ~~Buildings constructed after the effective date of these rules for the primary purpose of storing used or waste tires in excess of 10,000 shall comply with the NFPA 231D standard for storage of rubber tires incorporated by reference at Section 848.105.~~

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

Section 848.205 Pesticide Treatment

- a) Owners ~~and~~ operators of any tire storage ~~sites~~ or any tire disposal ~~sites~~ treating used or waste tires with pesticides must ~~pursuant to this Part or Title XIV of the Act:~~
- 1a) ~~use~~ Use a pesticide labeled ~~labelled~~ for control of mosquito larvae unless an adult mosquito problem is identified;
- 2b) ~~maintain~~ Maintain a record of pesticide use at the site that provides; ~~Such a record shall include~~ the following information for each application:
- A1) ~~date~~ Date of pesticide application;
- B2) ~~number~~ Number of used or waste tires treated;
- C3) ~~amount~~ Amount of pesticide applied; and
- D4) ~~type~~ Type of pesticide used.
- e) ~~Notify the Agency of pesticide use within 10 days of each application. The notification shall include the information listed in subsection (b).~~
- b1) Persons applying pesticides to used ~~or~~ waste tires must comply with the requirements of the Illinois Pesticide Act [415 ILCS 60](Ill. Rev. Stat. 1989, ch. 5, par. 801 et seq.). Information is available from:

Illinois Department of Agriculture
Bureau of Environmental Programs ~~Plant & Apiary Protection~~
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)

- a) ~~Existing sites. Sites which meet all of the conditions of subsection (a)(1) are exempt as set out in subsection (a)(2).~~
- 1) ~~Conditions for exemption.~~
- A) ~~Registration. The site was operated by a tire retreader who, as of~~

January 1, 1992, held a valid registration with the U.S. Department of Transportation as a tire retreader under 49 CFR 571.117 and 574 (October 1, 1990). This incorporation includes no later amendments or editions.

- B) ~~Number of Tires. The facility contains no more than 100,000 whole used or waste tires.~~
- C) ~~Equipment. The retreader:~~
 - i) ~~Has equipment at the site which is capable of retreading at least 500 tires per day when operated in accordance with the equipment manufacturer's specifications; and~~
 - ii) ~~Maintains documentation at the site which demonstrates that an average of 500 or more tires per day of operation were retreaded at the site during the previous calendar year.~~
- D) ~~Segregation. The owner or operator of the site segregates tires intended to be retreaded from those tires determined to be unsuitable for retreading.~~

2) ~~Scope of Exemption.~~

- A) ~~The following Sections do not apply:~~
 - i) ~~Pile separation distances specified at Sections 848.202(b)(1) and (2);~~
 - ii) ~~Storage limitation on whole tires specified at Section 848.202(b)(5);~~
 - iii) ~~Tire storage unit requirements of Sections 848.202(c)(4) and (5); and~~
 - iv) ~~The earthen berm requirement of Section 848.202(d)(3).~~
- B) ~~The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's tire production as shown by documentation maintained at the site.~~

3) ~~Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:~~

- A) ~~Within 90 days after the effective date of these regulations, develop and implement a tire storage plan to minimize the threat of fire and mosquito breeding. Such a plan shall include, but is not limited to, tire storage arrangements, aisle space, access to fire-fighting personnel and equipment and mosquito inspection and control.~~
- B) ~~Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (a)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days after receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:~~

~~Division of Environmental Health
Office of Health Protection
Illinois Department of Public Health
525 W. Jefferson Street
Springfield, Illinois 62761~~

- b) ~~New sites. Sites which meet all of the conditions of subsection (b)(1) are exempt as set out in subsection (b)(2).~~
- 1) ~~Conditions for exemption.~~
- A) ~~Registration. The site is operated by a tire retreader who, since January 1, 1992, first obtained a valid registration with the U.S. Department of Transportation as a tire retreader under 49 CFR 571.117 and 574 (October 1, 1990). This incorporation includes no later amendments or editions.~~
- B) ~~Equipment. The retreader:~~
- i) ~~Has equipment at the site which is capable of retreading at least 500 tires per day when operated in accordance with the equipment manufacturer's specifications; and~~
- ii) ~~Maintains documentation at the site which demonstrates that an average of 500 or more tires per operating day were retreaded at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use estimated production~~

for the first two months, and average monthly production thereafter, until a calendar year of data is available.

~~C) Segregation. The owner or operator of the site segregates tires intended to be retreaded from those tires determined to be unsuitable for retreading.~~

~~2) Scope of Exemption.~~

~~A) The storage limitation for whole tires specified at Section 848.202(b)(5) does not apply.~~

~~B) The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's production as shown by documentation maintained at the site. The owner or operator may exclude one fourth of the estimated first 12 months production during the first year of operation.~~

~~3) Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:~~

~~A) Within 90 days after the effective date of these regulations develop and implement a tire storage plan to minimize the threat of mosquito breeding. Such a plan shall include, but is not limited to, mosquito inspection and control.~~

~~B) Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (b)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days after the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:~~

~~Division of Environmental Health
Office of Health Protection
Illinois Department of Public Health
525 W. Jefferson Street
Springfield, Illinois 62761~~

~~e) Small sites. Sites which meet the conditions of subsection (c)(1) are exempt as set out in subsection (c)(2).~~

- 1) ~~Conditions for exemption.~~
 - A) ~~Number of tires. The facility contains no more than 500 whole-used or waste tires.~~
 - B) ~~Registration. The site is operated by a tire retreader who holds a valid registration with the U.S. Department of Transportation as a tire retreader under 49 CFR 571.177 and 574 (October 1, 1990). This incorporation includes no later amendments or editions.~~
 - C) ~~Equipment. The retreader:~~
 - i) ~~Has equipment at the site which is capable of retreading at least 20 tires per day when operated in accordance with equipment manufacturer's specifications; and~~
 - ii) ~~Maintains documentation at the site which demonstrates that an average of 20 tires per day were retreaded at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use estimated production for the first two months, and average monthly production thereafter, until a calendar year of data is available.~~
- 2) ~~Scope of exemption. The following do not apply:~~
 - A) ~~The pile separation distances specified at Section 848.202(b)(1) and (2); and~~
 - B) ~~The tire storage limitation of Section 848.202(b)(5).~~
- 3) ~~Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:~~
 - A) ~~Within 90 days after the effective date of these regulations develop and implement a tire storage plan to minimize the threat of fire and mosquito breeding. Such a plan shall include, but is not limited to, tire storage arrangements, aisle space, access to fire fighting personnel and equipment and mosquito inspection and control.~~
 - B) ~~Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (c)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement~~

~~within 45 days after receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:~~

~~Division of Environmental Health
Office of Health Protection
Illinois Department of Public Health
525 W. Jefferson Street
Springfield, Illinois 62761~~

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

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

- a) ~~Existing Sites. Sites which meet all of the conditions of subsection (a)(1) are exempt as set out in subsection (a)(2).~~
- 1) ~~Conditions for exemption.~~
- A) ~~Operation. The site was in operation as a tire stamping and die cutting facility on or before January 1, 1992.~~
- B) ~~Number of tires. The facility contains no more than 20,000 whole used or waste tires.~~
- C) ~~Equipment. The stamping and die cutting facility has equipment at the site which is capable of stamping and die cutting at least 50 tires per day when operated in accordance with the equipment manufacturer's specifications; and~~
- D) ~~Documentation. The stamping and die cutting facility maintains documentation at the site which demonstrates that an average of 50 or more tires per operating day were processed at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use estimated production for the first two months, and average monthly production thereafter, until a calendar year of data is available.~~
- E) ~~Segregation. The owner or operator of the site segregates tires intended to be stamped or die cut from those tires determined to be unsuitable for stamping or die cutting.~~
- 2) ~~Scope of exemption.~~

- A) ~~The following Sections do not apply:-~~
- i) ~~File separation distances specified at Sections 848.202(b)(1) and (2);-~~
 - ii) ~~The storage limitations on whole tires specified at Section 848.202(b)(5);-~~
 - iii) ~~Tire storage unit requirements of Sections 848.202(c)(4) and (5); and-~~
 - iv) ~~The earthen berm requirement of Section 848.202(d)(3).-~~
- B) ~~The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's tire production as shown by documentation maintained at the site.-~~
- 3) ~~Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:-~~
- A) ~~Within 90 days after the effective date of these regulations develop and implement a tire storage plan to minimize the threat of fire and mosquito breeding. Such a plan shall include, but is not be limited to, tire storage arrangements, aisle space, access to fire fighting personnel and equipment and mosquito inspection and control.-~~
 - B) ~~Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (a)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days of receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:-~~

~~Division of Environmental Health-
Office of Health Protection-
Illinois Department of Public Health-
525 W. Jefferson Street-
Springfield, Illinois 62761-~~
- b) ~~New sites. Sites which meet all of the conditions of subsection (b)(1) are exempt-~~

as set out in subsection (b)(2).-

- 1) ~~Conditions for exemption.~~
 - A) ~~Operation. The site was not in operation as a tire stamping and die-cutting facility on or before January 1, 1992.~~
 - B) ~~Equipment. The stamping and die-cutting facility has equipment at the site which is capable of stamping and die-cutting at least 50 tires per day when operated in accordance with the equipment manufacturer's specifications; and~~
 - C) ~~Documentation. The stamping and die-cutting facility maintains documentation at the site which demonstrates that an average of 50 or more tires per operating day were processed at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use estimated production for the first two months, and average monthly production thereafter, until a calendar year of data is available.~~
 - D) ~~Segregation. The owner or operator of the site segregates tires intended to be stamped or die cut from those tires determined to be unsuitable for stamping or die cutting.~~
- 2) ~~Scope of exemption.~~
 - A) ~~The storage limitation for whole tires specified at Section 848.202(b)(5) does not apply.~~
 - B) ~~The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's production as shown by documentation maintained at the site. The owner or operator may use the estimated first 12-months production during the first year of operation.~~
- 3) ~~Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:~~
 - A) ~~Within 90 days after the effective date of these regulations develop and implement a tire storage plan to minimize the threat of mosquito breeding. Such a plan shall include, but is not limited to, mosquito inspection and control.~~
 - B) ~~Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under~~

~~subsection (b)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days after receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall sent to:~~

~~Division of Environmental Health
Office of Health Protection
Illinois Department of Public Health
525 W. Jefferson Street
Springfield, Illinois 62761~~

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

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

~~Owners and operators of tire disposal sites are exempt from the financial assurance requirements of Subpart D as to that site where written approval of a tire removal agreement has been obtained from the Agency under Subpart E.~~

(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), the owners and operators~~The requirements of this Subpart shall apply to an owner or operator of any tire storage site 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 site or a tire disposal site at which more than 60 tons of used or waste tires are located at any one time, are subject to this Subpart ~~tire disposal site who is required by the management standards of Subpart B to maintain records in accordance with this Subpart.~~
- b) The owners and operators of any tire retreading facility are exempt from the tire tracking receipt requirements of this Part.

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

Section 848.302 Records

- a) ~~The owner and operator must keep the following records~~shall keep a record of used and waste tires at the site. The owner and operator shall 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~~ shall maintain ~~at the~~ the Daily Tire Record at the site. ~~The Daily Tire Record must; such record shall~~ include the day of the week, the date, the Agency designated site number, the site name ~~number and the site name~~ and address, and the additional information required under this Section.
- b) Information ~~The following information~~ relative to the daily receipt and disposition of used and waste tires at the site must ~~shall~~ 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, or volume of used or waste tires received at the site from the transporter during the operating business 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, or volume of used or waste tires transported from the site by the transporter during the operating business day, and the name, address, and telephone number of and the destination facility; ~~of the tires so transported.~~
 - 3) the weight, in tons, of used or waste tires burned or combusted at the site during the operating day; and ~~The total number of used or waste tires remaining in storage at the conclusion of the operating business day determined in terms of the passenger tire equivalent (PTE) in accordance with subsection (c).~~
 - 4) the weight, in tons, of used or waste tires remaining at the site at the conclusion of the operating day ~~The weight or volume of used or waste tires burned or combusted during the operating business day.~~

e) ~~The number of tires shall be determined in terms of the passenger tire equivalent (PTE) by weight or by volume as follows:-~~

1) ~~PTE based on weight:~~

$$\text{PTE} = W / \text{PTE weight factor}$$

~~Where,~~

~~W = weight of whole or shredded tires (lb)~~

~~PTE Weight factor = 25 lb/PTE~~

2) ~~PTE based on volume:~~

$$\text{PTE} = V / \text{PTE volume factor}$$

~~where,~~

~~V = volume of whole or shredded tires (ft³)~~

~~PTE volume factors:~~

~~for shredded tires, 1.25 ft³/PTE;~~

~~for whole tires, 4.00 ft³/PTE.~~

1) ~~PTE based on weight:-~~

$$\text{PTE} = W / \text{PTE weight factor}$$

~~where,~~

~~W = weight of whole or shredded tires (lb)~~

~~PTE weight factor = 25 lb/PTE~~

2) ~~PTE based on volume:-~~

$$\text{PTE} = V / \text{PTE volume factor}$$

~~where,~~

~~V = volume of whole or shredded tires (ft(3))~~

~~PTE volume factors:-~~

~~for shredded tires, 1.25 ft(3)/ PTE;~~

~~for whole tires, 4.00 ft(3)/ PTE.~~

d) ~~If both weight and volume of used or waste tires are monitored at a site, then the weight of the tires shall be used to estimate the PTE by weight in accordance with~~

subsection (c)(1).-

- e) ~~The owner or operator may establish procedures different from those specified in subsection (c) for the purposes of estimating the number of tires as long as the number of tires are estimated in terms of passenger tire equivalent. Such methods shall be established based on the different types of used or waste tires including, but not limited to, light truck tires, heavy duty truck tires, and shredded tires and method of stacking.~~
- f) ~~If the number of used or waste tires is estimated by employing a procedure established in accordance with subsection (c), then the owner or operator shall submit to the Agency such a procedure along with any supporting information such as tire weight and volume data, and method of stacking, within 30 days of the effective date of this Part for Agency approval.~~
- g) ~~For the purposes of this Part, "passenger tire equivalent" (PTE) means an average-sized passenger tire weighing 25 lb, and occupying a volume of 4.0 ft(3) when whole or 1.25 ft(3) when shredded.~~
- ch) ~~Entries on the Daily Tire Record as required to be made under this Section must by subsection (a) shall 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 which assures that required information can be entered on the Daily Tire Record by the end of each business day, in which case the information must be recorded in the Daily Tire Record by the end of each operating business 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 848.305. 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~~ shall maintain an Annual Tire Summary to the Agency for each calendar year. The Annual Tire Summary must be in a form prescribed by the Agency and must at the site; such record shall include the Agency designated site number, the site name and address, and the calendar year for which the summary applies.
- b) ~~Information~~ The following information relative to the annual receipt and disposition of used and waste tires at the site must ~~shall~~ be recorded in the Annual Tire Summary, including, but not limited to:-

- 1) ~~the~~The weight, in tons, or volume of used or waste tires received at the site during the calendar year;:-
 - 2) ~~the~~The weight, in tons, or volume 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~~The total number of used or waste tires determined in terms of passenger tire equivalent (PTE) remaining in storage at the conclusion of the calendar year.~~
 - 4) the weight, in tons, of used or waste tires remaining in storage at the site at the conclusion of the calendar year~~The weight or volume of used or waste tires combusted during the calendar year.~~
- c) The Annual Tire Summary ~~must~~shall be received by the Agency on or before January 31 of each year and ~~must~~shall cover the preceding calendar year.

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

Section 848.305 Tire Tracking Receipts~~Retention of Records~~

- 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 destinations 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. 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: 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~~ shall be signed by a person designated by the owner or operator as responsible for preparing and reviewing ~~those~~ such 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~~ shall 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: Added at 39 Ill. Reg. _____, effective _____)

SUBPART D: FINANCIAL ASSURANCE

Section 848.400 Scope and Applicability

- a) ~~This Subpart applies to owners and operators of tire storage sites and tire disposal sites, except as otherwise provided in this Section.~~

- ~~a)~~b) ~~Unless exempted by subsection (b)(e), owners and operators of any tire storage site and owners and operators of any tire disposal site must~~shall ~~comply with this Subpart prior to storing or disposing of 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.;~~
- b)~~e)~~ Owners and operators of any tire storage sites and owners and operators of any tire disposal sites are exempt from this Subpart with respect to the following types of sites:
- 1) sites~~Sites~~ where the real estate of the site is owned by:
 - A) the~~The~~ United States or one of its agencies;
 - B) the~~The~~ State of Illinois or one of its agencies; or
 - C) a~~A~~ unit of local government.;
 - ~~2) Tire disposal sites with a waste disposal permit under Section 21 of the Act and 35 Ill. Adm. Code 807 or 811. If used or waste tires are stored at the site, then the storage activities, unless otherwise exempted, are subject to this Subpart.;~~
 - ~~3) Sites where less than 500 used or waste tires are stored at the site and less than 50 used or waste tires have been disposed at the site, as reported on the annual notice of activity under Section 55(d) of the Act.;~~
 - ~~2)~~4) sites~~Sites~~ where, as reported in the annual notice of activity, 60 tons or less of than 5000 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 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(a), (b) or (e) of the Act.;
 - 3) sites for which a tire removal agreement has been approved by the Agency pursuant to Subpart E;

- 4) any tire retreading facilities, or tire stamping and die cutting facilities, at which:
- A) 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(a)(3) and 848.203 are met; and
- 5) 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(a)(3) are met.

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

Section 848.401 Maintaining~~Upgrading~~ Financial Assurance

- a) ~~Except as otherwise provided in subsection (b), the~~The owner or operator must at all times~~shall~~ maintain financial assurance in an amount equal to or greater than the current approved removal cost estimate calculated pursuant to Section 848.404 ~~at all times, except as otherwise provided by subsection (b).~~
- b) Within 60 days after the occurrence of any event listed in this subsection (b), the~~The owner or operator must~~shall increase the total amount of financial assurance to an amount that is~~so as to~~ equal to or greater than the current approved removal cost estimate calculated pursuant to Section 848.404 ~~within 90 days after any of the following occurrences:~~
- 1) ~~An increase in the current~~ approved removal cost estimate increases; or
 - 2) ~~A decrease in the value of a trust fund~~ established pursuant to Section 848.410 decreases.;
 - 3) ~~A determination by the Agency that an owner or operator no longer meets the financial test of Section 848.415(d); or~~
 - 4) ~~Notification by the owner or operator that the owner or operator intends to substitute alternative financial assurance, as specified in Section 848.406, for self insurance.~~

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

Section 848.402 Release of Financial Institution

The Agency ~~must~~shall 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~~when~~:

- a) ~~the~~An owner or operator has substituted alternate~~substitutes alternative~~ 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~~The Agency has released~~releases~~ 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~~A refusal to accept financial assurance tendered by the owner or operator;
 - 2) ~~a~~A refusal to release the owner or operator from the requirement to maintain financial assurance;
 - 3) ~~a~~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~~A refusal to approve a reduction in the amount of a letter of credit;;
 - 7) ~~A determination that an owner or operator no longer meets the financial~~

~~test.~~

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

Section 848.404 Removal Cost Estimate

- a) ~~No later than January 1 of each year, the~~The owner or operator ~~must~~shall submit to the Agency, ~~for approval,~~ a written estimate of the cost of removing ~~the maximum number of~~all used and waste tires ~~that will be accumulated at~~from 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 Section 55(d) of the Act.~~
- 1) ~~The owner or operator shall submit the cost estimate with the annual notice of activity pursuant to Section 55(d) of the Act.~~
 - 2) ~~The cost estimate is due on January 1 of each year, commencing January 1, 1992.~~
- b) ~~In addition, the~~The owner or operator ~~must~~shall 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~~whenever a change in the removal ~~plan increases~~ 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.
- e) ~~The cost estimate equals the larger of the following:~~
- 1) ~~The cost of removing all used and waste tires accumulated at the site; or~~
 - 2) ~~The cost of removing the maximum number of used and waste tires which the owner or operator anticipates will be accumulated at the site at any time.~~
- ~~c~~d) The owner or operator ~~must~~shall base the removal cost estimate on ~~costs either:~~1) Costs to the Agency under a contract to perform tire removal actions in the area in which the site is located; or 2) 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.
- ~~d~~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.
- ~~e~~f) Once the owner or operator has completed an activity described in subsection (c), 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~~utilize 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~~A trust fund (Section 848.410);
- b) a surety bond guaranteeing payment (Section 848.411); or
- ~~c~~b) ~~a~~A letter of credit (Section 848.413);³
- e) ~~Self insurance (Section 848.415).~~

(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 listed in Section 948.406 include~~are limited to~~ trust funds, surety bonds guaranteeing payment, and letters of credit. The ~~mechanisms~~mechanism must be as specified in Sections~~35 Ill. Adm. Code~~ 848.410, 848.411, and 848.413, respectively, except that it is the combination of mechanisms~~mechanism~~, rather than any~~the~~ single mechanism, that,~~which~~ must provide financial assurance for an amount at least equal to the current approved removal cost estimate. An owner or operator that uses a trust fund in combination with a surety bond or a letter of credit 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 to provide for removal.

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

Section 848.408 Use of a Financial MechanismMechanisms 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. ~~In directing funds available through a single mechanism for the removal of any single site covered by that mechanism, the Agency shall direct only that amount of funds designated for that site, unless the owner or operator agrees to the use of additional funds available under that mechanism.~~

(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~~which conforms to the requirements of this Section and submitting an originally original signed duplicate of the trust agreement to the Agency.
- b) The trustee ~~must~~shall be an entity ~~that~~which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.
 - 1) ~~Whose trust operations are examined by the Illinois Commissioner of Banks and Trust Companies pursuant to the Illinois Banking Act (Ill. Rev. Stat. 1989, ch. 17, pars. 301 et seq.); or~~
 - 2) ~~Who complies with the Corporate Fiduciary Act (Ill. Rev. Stat. 1989, ch. 17, pars. 1551-1 et seq.).~~
- c) The trust agreement must be irrevocable, must be on forms prescribed by the Agency, the forms specified in Appendix A, Illustration A, and the trust agreement must be accompanied by a formal certification of acknowledgment, on a the form prescribed by the Agency specified in Appendix A, Illustration B., 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, 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~~trust:
 - 1) The owner or operator must shall 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~~five years ~~and~~. The pay-in period commences on at one of the following times, whichever is later: A) On the date any of the sites covered by the trust agreement the site first receives used or waste tires; or B) ~~On January 1, 1992.~~
- 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~~
CV = Current value of the trust fund
- Y = Number of years remaining in the pay in period.
- 4) The owner or operator ~~must~~shall make the first annual payment before used or waste tires are received at a site covered by the trust agreement~~prior to beginning of the pay-in period.~~ Before receiving used tires at a site covered by the trust agreement, theThe owner or operator ~~must~~shall also, ~~prior to the beginning of the pay-in period,~~ 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~~shall 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~~shall evaluate the trust fund annually, as of the anniversary of the day the trust was created or on such ~~other~~earlier date as may be provided in the agreement. Within 30 days after the evaluation date each year, theThe trustee

must furnish~~shall notify~~ the owner or operator and the Agency with a statement confirming~~or~~ 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 ~~financial assurance~~ 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~~Within 60 days~~ 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~~shall~~ 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~~Within 60 days~~ after receiving the itemized bills for partial or final removal activities, but no more than 120 days following the Agency's receipt of the itemized bills, the Agency ~~must~~shall 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~~The Agency ~~must~~shall 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~~shall 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~~shall 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 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 which~~ conforms to the requirements of this Section and submitting the letter of credit to the Agency.
- b) The issuing institution ~~must~~ shall be an entity ~~that which~~ has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined

by a federal or state agency.:

- 1) ~~Whose letter of credit operations are regulated by the Illinois Commissioner of Banks and Trust Companies; or~~
- 2) ~~Whose deposits are insured by the Federal Deposit Insurance Corporation.~~

c) Forms:

- 1) The letter of credit must be on standardized forms prescribed by the Agency~~the forms specified in Appendix A, Illustration C.~~
- 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~~will 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~~The owner or operator ~~must~~shall submit an originally signed duplicate-a signed, duplicate original of the trust agreement to the Agency with the letter of credit; and
- 2) ~~unless~~Unless the standby trust is funded pursuant to the requirements of this Section, none of the following are ~~not~~ required:
 - A) ~~payments~~Payments into the trust fund as specified in Section 848.410.;
 - B) ~~updating~~Updating of Schedule A of the trust agreement schedule in Section 848.410(c) to show the current approved removal cost estimates.;
 - C) ~~annual~~Annual valuations as required by the trust agreement; or;
 - D) ~~notices~~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~~shall 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~~ shall draw on the letter of credit when the owner or operator does any one or more of the following:
 - A) ~~abandons~~ Abandons the site;
 - B) ~~is~~ 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;
 - ~~DE~~) ~~fails~~ Fails to initiate removal when ordered to do so by the Board pursuant to Title ~~VIII~~ VH of the Act, or when ordered to do so by a court of competent jurisdiction;
 - ~~ED~~) ~~notifies~~ Notifies the Agency that it has initiated removal, or initiates removal, but fails to provide removal in accordance with the removal plan; or
 - ~~FE~~) 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 Fails to provide additional or substitute financial assurance ~~when required to do so~~ 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. ~~The Agency shall approve a reduction in the amount whenever the current cost estimate decreases.~~
 - 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 ~~the expiration date~~ 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 ~~expiration date~~. 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.

~~h) Cure of default and refunds:~~

- ~~1) The Agency shall release the financial institution if, after the Agency is allowed to draw on the letter of credit, the owner or operator or another person provides financial assurance for removal from the site, unless the Agency determines that a removal plan or the amount of substituted financial assurance is inadequate to provide removal as required by this Part.~~
- ~~2) After removal has been completed in accordance with the removal plans and the requirements of this Part, the Agency shall refund any unspent money which was paid to the Agency by the financial institution.~~

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

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

~~a) Definitions. The following definitions are intended to assist in the understanding of this Part and are not intended to limit the meanings of terms in any way that conflicts with generally accepted accounting principles:~~

~~"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.~~

~~"Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.~~

~~"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.~~

~~"Generally accepted accounting principles" means "Accounting Standards", incorporated by reference in Section 848.105.~~

~~"Generally accepted auditing standards" means Auditing Standards—Current Text, incorporated by reference at 848.105.~~

~~"Independently audited" refers to an audit performed by an independent~~

~~certified public accountant in accordance with generally accepted auditing standards.~~

~~"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.~~

~~"Net working capital" means current assets minus current liabilities.~~

~~"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.~~

~~"Tangible net worth" means tangible assets less liabilities; tangible assets do not include intangibles such as goodwill and rights to patents or royalties.~~

b) ~~Information to be Filed~~

~~An owner or operator may satisfy the financial assurance requirements of this Part by providing the following:~~

- ~~1) Bond without surety promising to pay the cost estimate (subsection (c)).~~
- ~~3) Proof that the owner or operator meets the financial test (subsection (d)).~~

e) ~~Bond Without Surety. An owner or operator utilizing self insurance shall provide a bond without surety on the forms specified in Appendix A, Illustration D. The owner or operator shall promise to pay the current cost estimate to the Agency unless the owner or operator provides removal in accordance with the removal plan.~~

d) ~~Financial Test~~

~~1) To pass the financial test, the owner or operator shall meet the criteria of either subsection (d)(1)(A) or (d)(1)(B):~~

~~A) The owner or operator shall have:~~

- ~~i) Two of the following three ratios: a ratio of total liabilities to net worth of less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities of greater than 0.1; or a ratio of current assets to current liabilities of greater than 1.5; and~~
- ~~ii) Net working capital and tangible net worth each at least six~~

~~times the current cost estimate; and~~

- ~~iii) Tangible net worth of at least \$10 million; and~~
- ~~iv) Assets in the United States amounting to at least 90 percent of the owner or operator's total assets and at least six times the current cost estimate.~~

~~B) The owner or operator shall have:~~

- ~~i) A current rating of AAA, AA, A or BBB for its most recent bond issuance as issued by Standard and Poor, or a rating of Aaa, Aa, A or Baa, as issued by Moody; and~~
- ~~ii) Tangible net worth at least six times the current cost estimate; and~~
- ~~iii) Tangible net worth of at least \$10 million; and~~
- ~~iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the current cost estimate.~~

~~2) To demonstrate that it meets this test, the owner or operator shall submit the following items to the Agency:~~

- ~~A) A letter signed by the owner or operator's chief financial officer and worded as specified in Appendix A, Illustration F; and~~
- ~~B) A copy of the independent certified public accountant's report on examination of the owner or operator's financial statements for the latest completed fiscal year; and~~
- ~~C) A special report from the owner or operator's independent certified public accountant to the owner or operator stating that:

 - ~~i) The accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and~~
 - ~~ii) In connection with that procedure, no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.~~~~

- e) ~~Updated Information.~~
- 1) ~~After the initial submission of items specified in subsection (d), the owner or operator shall send updated information to the Agency within 90 days after the close of each succeeding fiscal year.~~
 - 2) ~~If the owner or operator no longer meets the requirements of subsection (d) the owner or operator shall send notice to the Agency of intent to establish alternative financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements.~~
- f) ~~Qualified Opinions. If the opinion required by subsections (d)(2)(B) and (d)(2)(C) includes an adverse opinion or a disclaimer of opinion, the Agency shall disallow the use of self insurance. If the opinion includes other qualifications, the Agency shall disallow the use of self insurance if:~~
- 1) ~~The qualifications relate to the numbers which are used in the financial test; and,~~
 - 2) ~~In light of the qualifications, the owner or operator has failed to demonstrate that it meets the financial test.~~
- g) ~~Parent Corporation. An owner or operator may satisfy the financial assurance requirements of this Part by demonstrating that a corporation which owns an interest in the owner or operator meets the financial test. The owner or operator shall also provide a bond with the parent as surety (Appendix A, Illustration E).~~

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

SUBPART E: TIRE REMOVAL AGREEMENTS

Section 848.501 Applicability

- a) ~~The~~ ~~By January 1, 1992,~~ the owner or operator of a tire disposal site ~~must~~ ~~shall~~ 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 [514 ILCS 5/55(d)(2)(ii)]*~~ ~~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;~~ or

- 2) ~~the~~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; ~~or~~
- 3) ~~The owner or operator has submitted a complete written proposal pursuant to Section 848.503 for a tire removal agreement to the Agency in accordance with this Subpart by July 1, 1991, the owner or operator has submitted all information required or necessary to process the submission, and the Agency has not made a determination with respect to the submittal.~~
- b) The requirements of subsection (a) shall not apply if the owner or operator has removed all used and waste tires from the tire disposal site prior to January 1, 1992. 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~~For tire disposal sites at which used or waste tires are first disposed after January 1, 1992, prior to disposing of any used or waste tires the owner or operator of a tire disposal site must ~~shall~~ 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~~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~~MINIMIZES THE NEED FOR FURTHER MAINTENANCE;~~
- b) removes all used and waste tires and any residues therefrom; and~~REMOVES ALL USED AND WASTE TIRES AND ANY RESIDUES THEREFROM; AND~~
- c) protects human health during the removal and post removal periods~~PROTECTS~~

~~HUMAN HEALTH DURING THE REMOVAL AND POST REMOVAL PERIODS. [415 ILCS 5/55.4(a)](Section 55.4 of the Act)~~

(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*~~TIRE REMOVAL AGREEMENT SUBMITTED TO THE AGENCY~~ for approval under this Subpart E *shall include the following*~~SHALL INCLUDE THE FOLLOWING~~:
- 1) *a complete inventory of the tires located on the site*~~A COMPLETE INVENTORY OF THE TIRES LOCATED ON THE SITE.~~
 - 2) *a description of how the removal will be conducted in accordance with*~~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*~~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*~~A DETAILED DESCRIPTION OF OTHER ACTIVITIES NECESSARY DURING THE REMOVAL PERIOD TO ENSURE THAT THE REQUIREMENTS OF Section 848.502 ARE MET.~~
 - 5) *a schedule of completing the removal of tires from the site, as required in Section 848.504. [415 ILCS 5/55.4(b)]*~~A SCHEDULE OF COMPLETING THE REMOVAL OF TIRES FROM THE SITE, AS REQUIRED IN Section 848.504. (Section 55.4 of the Act)~~
- 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~~~~permit~~, 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~~ shall preclude the owner or operator from removing used or waste tires in accordance with the approved partial or final tire removal agreement ~~before certification of completion of partial or final removal.~~

(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~~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~~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~~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 tires~~FIVE YEARS IF THE SITE CONTAINS 10,000 OR MORE TIRES.~~
- 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~~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)]~~(Section 55.4 of the Act)~~

(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~~ ~~Subpart shall~~ submit a proposed tire removal agreement to the Agency that satisfies Sections 848.502 through 848.505; ~~Sections 848.502—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; ~~if there is a reasonable possibility that the tire disposal site or tire storage site will receive additional used or waste tires, no later than one year after the date on which the site received the most recent volume of used or waste tires. If the owner or operator of a tire storage site or tire disposal site demonstrates to the Agency that the site has the capacity to receive additional used or waste tires and that the owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment, the Agency shall approve an extension to this one-year limit.~~
- b) The owner or operator ~~must~~ ~~shall~~ 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 ~~must~~ ~~shall~~ have authority to approve a later date for initiation of tire removal in a tire removal agreement if: ~~1) 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. two years; or 2) other factors relative to operation of the site necessitate a later date for initiating removal of used and waste tires.~~

(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 ~~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 ~~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 ~~HAS BEEN CLEARED OF TIRES IN ACCORDANCE~~

~~WITH THE APPROVED~~ tire removal *agreement*. ~~[415 ILCS 5/55.4(e)]~~~~(Section 55.4 of the Act)~~

(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~~~~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)]~~~~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.~~ ~~(Section 55.4 of the Act)~~

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

Section 848.509 Board Review

~~Modification of or refusal to modify~~~~MODIFICATION OF OR REFUSAL TO MODIFY~~ A a proposed tire removal *agreement submitted by an owner or operator proposing to proceed with removal*~~AGREEMENT SUBMITTED BY AN OWNER OR OPERATOR PROPOSING TO PROCEED WITH REMOVAL~~ under a tire removal agreement *is a permit denial for purposes of*~~IS A PERMIT DENIAL FOR PURPOSES OF~~ appeal pursuant to 35 Ill. Adm. Code 105. ~~[415 ILCS 5/55.4(f)]~~~~(Section 55.4 of the Act)~~

(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~~The owner or operator has registered the vehicle with the Agency or an employee of a person that is registered as a tire transporter with the Agency in accordance with this Subpart, received approval of such registration from the Agency, and, in either case, the~~ such registration is current, valid, and in effect;-
 - 2) the vehicle~~The owner or operator displays a placard on the vehicle, issued by the Agency following registration, 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 ~~identifying the transporter as a registered tire hauler.~~
- 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~~ shall be submitted ~~made on registration application forms prescribed by the Agency that, at which as a minimum,~~ shall require submission of the following information:
- 1) the name~~Name, address, and telephone number of the person seeking registration; and location of the vehicle owner(s) and operator(s).~~
 - 2) a~~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~~ An agreement by the person seeking registration vehicle owner(s) and operator(s) that:
- A) ~~tire~~ Tire loading, transportation, and unloading will be conducted in compliance with all applicable state and federal laws and regulations;-
 - B) ~~no used or waste~~ No tires ~~will~~ shall be transported with other wastes on one vehicle if ~~that activity~~ such 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~~ and regulation; ~~and~~.
 - C) ~~the~~ The equipment and procedures to be used ~~will~~ shall be proper for the tire transportation to be safe for the ~~transporters~~ haulers, handlers, and others, and ~~will~~ meet the requirements of all other applicable state and federal laws and regulations.
- b) All tire transporter registrations ~~must~~ shall be signed by the ~~person seeking registration or by a~~ owner(s) and operator(s) of the vehicle; or, in the name of the owner and operator, by the owner's and operator's duly authorized agent of the person seeking registration who has provided the Agency with evidence of his or her authority ~~when accompanied by evidence of authority~~ to sign the ~~registration~~ application on behalf of the person seeking registration ~~application~~.
- 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~~ registration applications ~~shall~~ be deemed to be filed on the date of initial receipt by the Agency of a properly completed ~~registration application on the~~ 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 ~~at this~~ registration within 90 days from the filing of the completed ~~form~~ application, the ~~person seeking registration~~ applicant 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 shall be~~ deemed to have taken final action on the date that the notice of final action is mailed.
- d) ~~Before approving a registration, the~~ The Agency ~~must consider whether~~ shall require the ~~registration is~~ application to be complete and consistent with the provisions of the Act and Board regulations and may undertake such investigations and request the ~~person seeking registration~~ applicant to furnish such proof as it deems necessary to verify the information and statements made in the ~~registration~~ application. If the ~~registration~~ application is complete and the approval of ~~it~~ thereof will not cause a violation of the Act or Board regulations, the Agency ~~must~~ shall 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~~ hereunder, 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~~ applicant 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~~ shall 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~~ shall not excuse the registrant from compliance with any such change.
- h) No tire transporter registration is transferable ~~from one person to another~~. A tire transporter registration is personal to the ~~person~~ 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~~ shall be 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~~ Part shall not provide ~~any person~~ the transporter with a defense to a violation of the Act or Board regulations, except for ~~transporting~~ hauling 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~~ shall be effective for a period of two years from the date of approval and are renewable, except as provided in Section 848.603 ~~(b) and (i)~~.
- b) Applications for registration renewal ~~must~~ shall 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~~ owner or operator of any vehicle registered to transport used or waste tires shall place, on opposite sides of each vehicle, a placard that ~~on opposite sides of the vehicles~~ which displays a number issued by the Agency following the words "Registered Tire Transporter: (number)".
- b) ~~Registered tire transporter numbers and letters shall be removable only by destruction.~~ Directly adjacent to the words and number, the ~~transporter must~~ vehicle owner and operator shall display a seal furnished by the Agency that ~~designates~~ which shall designate 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 destinations 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).
- 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 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 shall prescribe the form on which all information required under this Part must 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 the permit application form prescribed by the Agency and providing the content required by 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 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 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

Section 848.ILLUSTRATION A Trust Agreement

TRUST AGREEMENT

Trust Fund Number _____
Trust Agreement, the "Agreement," entered into as of the _____ (day of month) _____ day of
(month and year), by and between _____ (name of the owner or operator), a/an
(name of State) ("corporation," "partnership," "association" or "proprietorship"), the "Grantor," and
(Name of corporate trustee), ("incorporated in the State of _____" or "a national bank"), the "Trustee."

TRUST AGREEMENT

Trust Fund Number _____

Trust Agreement, the "Agreement," entered into as of the _____ day of _____, by and between

a _____, the "Grantor,"
and _____,
_____, the "Trustee."

Whereas, the Illinois Pollution Control Board (IPCB), has established certain regulations applicable to the Grantor, requiring that an owner or operator of a used or waste tire storage or disposal site provide assurance that funds will be available when needed for removal of used and waste tires from the site.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the sites identified in this Agreement, and/or to serve as a standby trust fund.

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

Whereas, Trustee is an entity which has authority to act as a trustee and whose trust operations are regulated by a state or federal agency, the Illinois Commissioner of Banks & Trust Companies or who complies with the Corporate Fiduciary Act (Ill. Rev. Stat. 1989, ch. 17, par. 1551-1 et seq.). (~~Line through any condition which does not apply.~~)

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

- (a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor owner or operator.
- (b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Sites and Cost Estimates. This Agreement pertains to the sites and cost estimates identified on attached Schedule A (on Schedule A, list the name and address, and the current initial cost estimate, or portions thereof, of each site for which financial assurance is demonstrated by this Agreement).

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Illinois EPA/EPA. The Grantor and the Trustee intend that no other third party have access to the Fund except as provided in this Agreement. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B to this Agreement. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits on the Fund, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, in trust, as provided in this Agreement. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Illinois EPA.

Section 4. Payment for Removal. The Trustee shall make payments from the Fund as the Illinois EPA/EPA shall direct, in writing, to provide for the payment of the costs of removal at the sites covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the Illinois EPA/EPA from the Fund for removal expenditures in such amounts as the Illinois EPA/EPA shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Illinois EPA/EPA specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

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

Section 6. Trustee Trust Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that;

- (a) Securities or other obligations of the Grantor, or any other owner or operator of the sites, or any of their affiliates as defined in Section 80a-2(a) the Investment Company Act of 1940, as amended (15 U.S.C. 80a-2(a)), shall not be acquired or held, unless they are securities or other obligations of the Federal government or a state government~~the State of Illinois~~;
- (b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of federal or state government~~the Federal Deposit Insurance Corporation~~.
- (c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

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

- (a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
- (b) To purchase shares in any investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) including one which may be created, managed, underwritten or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

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

- (a) To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expedience of any such sale or other disposition;
- (b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers granted in this Agreement;
- (c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of

any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

- (d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of federal or state government~~the Federal Deposit Insurance Corporation~~; and
- (e) To compromise or otherwise adjust all claims in favor of or against the Fund.

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

Section 10. Annual Valuation. The Trustee shall annually furnish to the Grantor and to the ~~Illinois EPA~~EPA a statement confirming the value of the Trust. The evaluation day shall be each year on the (day of month) day of (month) day of. Any securities in the Fund shall be valued at market value as of the evaluation day. The Trustee shall mail the evaluation statement to the Grantor and the ~~Illinois EPA~~EPA within 30 days after the evaluation day. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the ~~Illinois EPA~~EPA shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

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

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

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of

the trust in a writing sent to the Grantor, the Illinois EPA~~IEPA~~ and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.-

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Illinois EPA~~IEPA~~ to the Trustee shall be in writing, signed by the Illinois EPA~~IEPA~~ Director or the Director's~~his~~ designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or IEPA hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or Illinois EPA~~IEPA~~, except as provided in this Agreement.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the Illinois EPA~~IEPA~~, by certified mail within ten days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during the period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and the Illinois EPA~~IEPA~~ Director, or by the Trustee and the Illinois EPA~~IEPA~~ Director if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the Illinois EPA~~IEPA~~ Director, or by the Trustee and the Illinois EPA~~IEPA~~ Director, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Illinois EPA~~IEPA~~ Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed and enforced according to the laws of the State of Illinois.

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

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement was not modified or altered in any way other than as intended to complete the Agreement.

State of _____)
County of _____) SS

Attest: Signature of _____
Grantor

Typed Name _____

Title _____

Seal

Attest: Signature of _____
Trustee

Typed Name _____

Title _____

Seal

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

Section 848.APPENDIX A Financial Assurance Forms

Section 848.ILLUSTRATION B Surety Bond Guaranteeing Payment Certificate of Acknowledgement

SURETY BOND GUARANTEEING PAYMENT

Date bond executed: _____

Effective date: _____

Principal: _____

Type of Organization: _____

State of incorporation: _____

Surety(ies):

Removal Amount _____

Illinois EPA I.D. No. _____

Name _____

Address _____

City _____

Illinois EPA I.D. No. _____

Name _____

Address _____

City _____

Please attach a separate page if more space is needed for all facilities.

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Illinois Environmental Protection Agency (hereinafter called Illinois EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies)

are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, the Illinois Pollution Control Board (IPCB), has established certain regulations applicable to the Principal, requiring that an owner or operator of a used or waste tire storage or disposal site provide assurance that funds will be available when needed for removal of used and waste tires from the site; and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance.

The bond must guarantee that the Principal will perform removal in accordance with the removal plan and guarantee that, within 90 days after receipt by both the Principal and the Illinois EPA of a notice of cancellation of the bond from the Surety(ies), provide alternate financial assurance in accordance with 35 Ill. Adm. Code 848, Subpart D and obtain the Illinois EPA's written approval of the assurance provided.

The surety will become liable on the bond obligation when, under the term 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 (i) fails to complete removal or (ii) fails to submit a removal plan that is approved by the Illinois EPA in accordance with 35 Ill. Adm. Code 848.506;
- D) fails to initiate removal when ordered to do so by the IPCB pursuant to Title VIII of the Illinois Environmental Protection 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 Illinois EPA of a notice of cancellation of the surety bond, to provide alternate financial assurance and obtain the Illinois EPA's written approval of the assurance provided.

If the Principal provides alternate financial assurance, as specified in 35 Ill. Adm. Code 848, Subpart D as applicable, and obtains the Illinois EPA Director's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the Illinois EPA from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the Illinois EPA Director that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the Illinois EPA Director.

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

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Illinois EPA Director, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Illinois EPA Director, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Illinois EPA Director.

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

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new removal amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Illinois EPA Director.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond was not altered or modified in any way other than as intended to complete the surety bond.

Principal Signature(s) _____

Name(s) _____

Title(s)

Corporate seal

Corporate Surety(ies)

Name

Address

State of incorporation:

Liability limit:

\$

Signature(s)

Name(s)

Title(s)

Corporate seal

Co-surety(ies)

Name

Address

State of incorporation:

Liability limit:

\$

Signature(s)

Name(s)

Title(s)

Bond premium:

\$

CERTIFICATE OF ACKNOWLEDGMENT

State of _____

)

) SS

County of _____)

On this _____ day of _____; _____ before me personally came _____ (owner or operator) to me known, who, being by me duly sworn, did depose and say that she/he resides at

_____ (address) ;
that she/he is _____ of _____ ;
(title) (corporation)

corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

Notary Public

My Commission Expires _____

(Source: Old Appendix A, Illustration B repealed, and new Appendix A, Illustration B added, at 39 Ill. Reg. _____, effective _____)

Section 848.APPENDIX A Financial Assurance Forms**Section 848.ILLUSTRATION C Irrevocable Standby Letter of Credit**

Director
 Illinois Environmental Protection Agency
~~c/o Bureau of Land #242200 Churchill Road~~
Financial Assurance Program
1021 North Grand Ave. East
PO Box 19276
 Springfield ~~IL 62794-9276, Illinois 62706~~

Dear Sir or Madam:

~~We have authority to issue letters of credit. Our letter of credit operations are regulated by the Illinois Commissioner of Banks and Trusts or our deposits are insured by the Federal Deposit Insurance Corporation. (Omit language which does not apply)~~

We hereby establish our Irrevocable Standby Letter of Credit No. _____
 in your favor, at the request and for the account of _____
 up to the aggregate amount of _____ U.S. dollars (\$ _____),
 available upon presentation of

1. your sight draft, bearing reference to this letter of credit No. _____ ; and
2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Environmental Protection Act [415 ILCS 5]."~~(Ill. Rev. Stat. 1989, ch. 111½, par. 1001 et seq.) and 35 Ill. Adm. Code 848.413(e).~~"

This letter of credit is effective as of _____ and ~~shall will~~ expire on _____, but such expiration date ~~shall will~~ be automatically extended for a period of _____ on _____ and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and _____ by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and _____ as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of _____ in accordance with your instructions.

We certify that the wording of this letter of credit was not altered or modified in any way other than as intended to complete the letter of credit.

~~This letter of credit is governed by the Uniform Commercial Code (Ill. Rev. Stat. 1989, ch. 26, pars. 1-101 et seq.).~~

Signature

Typed Name

Title

Date

Name and address of issuing institution

This credit is subject to

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

Section 848.APPENDIX A Financial Assurance Forms

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

OWNER OR OPERATOR'S BOND WITHOUT SURETY

Date bond executed:

Effective date:

Owner or operator:

Owner or operator's address:

Site:

Site address:

Penal sum:

\$ _____

~~The owner or operator promises to pay the penal sum to the Illinois Environmental Protection Agency unless the Owner or operator provides removal in accordance with the removal plan for the site.~~

Owner or operator

Signature

Typed Name

Title

Date

Corporate seal

(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)

~~OWNER OR OPERATOR'S BOND WITH PARENT SURETY~~

~~Date bond executed:~~

~~Effective Date:~~

~~Surety:~~

~~Surety's address:~~

~~Owner or operator:~~

~~Owner or operator's address:~~

~~Site:~~

~~Site address:~~

~~Penal sum:~~

~~\$ _____~~

~~The Owner or operator and Surety promise to pay the above penal sum to the Illinois Environmental Protection Agency ("IEPA") unless the Owner or operator provides removal in accordance with the removal plan for the site. To the payment of this obligation the Owner or operator and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.~~

~~Whereas the Owner or operator is required under 35 Ill. Adm. Code 848.Subpart D to provide financial assurance for removal; and~~

~~Whereas the Owner or operator and Surety agree that this bond shall be governed by the laws of~~

~~the State of Illinois; and~~

~~Whereas the Surety is a corporation which owns an interest in the Owner or operator;~~

~~The Surety shall pay the penal sum to the IEPA if, during the term of the bond, the Owner or operator fails to provide removal for any site in accordance with the removal plan for that site as guaranteed by this bond. The Owner or operator fails to so provide when the Owner or operator:~~

- ~~a) Abandons the site;~~
- ~~b) Is adjudicated bankrupt;~~
- ~~c) Fails to initiate removal when ordered to do so by the Board or a court of competent jurisdiction; or~~
- ~~d) Notifies the Agency that it has initiated removal, or initiates removal, but fails to remove used and waste tires in accordance with the removal plan.~~
- ~~e) Fails to provide additional or substitute financial assurance when required to do so under this Subpart.~~

~~The Surety shall pay the penal sum of the bond to the IEPA within 30 days after the IEPA mails notice to the Surety that the Owner or operator has failed to so provide removal. Payment shall be made by check or draft payable to the State of Illinois.~~

~~In Witness Whereof, the Owner or operator and Surety have executed this bond and have affixed their seals on the date set forth above.~~

~~The persons whose signatures appear below certify that they are authorized to execute this surety bond on behalf of the Owner or operator and Surety.~~

Owner or operator

Surety

Signature

Name

Typed Name

Address

Title

State of Incorporation

Date

Signature

Typed Name

Title

Corporate seal

Corporate seal

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

Section 848.APPENDIX A Financial Assurance Forms

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

Director
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

Dear Sir or Madam:-

I am chief financial officer of _____ .

~~This letter is in support of this firm's use of the financial test to demonstrate financial assurance pursuant to 35 Ill. Adm. Code 848.415.~~

~~This letter is to demonstrate financial assurance for the following sites:-~~

Owner or operator:

Name:

Address:

City:

Current cost estimate:

\$ _____

Owner or operator:

Name:

Address:

City:

Current cost estimate:-

\$ _____

~~Please attach a separate page if more space is needed for all facilities.~~

~~Attached is an Owner or operator's Bond without Surety or an Owner or operator's Bond with Parent Surety for the current cost estimate for each site. (Strike inapplicable language.)~~

Financial Test
Alternative I

1. ~~Sum of current cost estimates (total of all cost estimates shown in paragraphs above)~~
\$ _____
2. ~~Total liabilities (if any portion of the cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4)~~
\$ _____
3. ~~Tangible net worth~~
\$ _____
4. ~~Net worth~~
\$ _____
5. ~~Current assets~~
\$ _____
6. ~~Current liabilities~~
\$ _____
7. ~~Net working capital (line 5 minus line 6)~~
\$ _____
8. ~~The sum of net income plus depreciation, depletion, and amortization~~
\$ _____
9. ~~Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.)~~
\$ _____

~~Yes~~

~~No~~

- 10 Is line 3 at least \$10 million?

-
- 11. Is line 3 at least 6 times line 1?

 - 12. Is line 7 at least 6 times line 1?

 - 13. Are at least 90 percent of firm's assets located in the U.S.? If not, complete line 14.

 - 14. Is line 9 at least 6 times line 1?

 - 15. Is line 2 divided by line 4 less than 2.0?

 - 16. Is line 8 divided by line 2 greater than 0.1?

 - 17. Is line 5 divided by line 6 greater than 1.5?

Signature

Typed Name

Title

Date

Financial Test
Alternative II

- 1. Sum of current cost estimates (total of all cost estimates shown in paragraphs above)
\$ _____
- 2. Current bond rating of most recent issuance of this firm and name of rating service

- 3. Date of issuance of bond

4. ~~Date of maturity of bond~~

5. ~~Tangible net worth (if any portion of the cost estimate is on your firm's financial statements, you may add the amount of that portion to this line)~~

\$ _____

6. ~~Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.)~~

\$ _____

Yes

No

7. ~~Is line 5 at least \$10 million?~~

8. ~~Is line 5 at least 6 times line 1?~~

9. ~~Are at least 90 percent of firm's assets located in the U.S.? If not, complete line 10.~~

10. ~~Is line 6 at least 6 times line 1?~~

Signature

Typed name

Title

Date

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

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2014); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706.

Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Don A. Brown, Assistant Clerk, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on September 3, 2015 by a vote of 5 to 0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, circular initial "D".

Don A. Brown, Assistant Clerk
Illinois Pollution Control Board