

ILLINOIS POLLUTION CONTROL BOARD
April 26, 1990

IN THE MATTER OF:

USED AND WASTE TIRE REGULATION) R90-9
(35 ILL. ADM. CODE 848)) (Rulemaking)

PROPOSED RULE. FIRST NOTICE

ORDER OF THE BOARD (by J. Marlin):

This matter comes before the Board on the April 6, 1990 filing by the Illinois Environmental Protection Agency of proposed regulations for the "Management of Used and Waste Tires." This proposal for rulemaking is made pursuant to Section 55.2(a) of the Environmental Protection Act (Act) Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1055.2 as amended by P.A. 86-452. This proposal sets forth provisions for the regulation of disposal, storage, processing and transportation of used and waste tires, including enforcement and financial assurance mechanisms. Section 55.2 of the Act specifies that the Board adopt such a proposal within one year of receipt of proposed regulations.

No hearings have been held on this rulemaking. On April 12, 1990 the Board accepted the proposal for hearing with directions to the Hearing Officer. These directions concerned deficiencies identified by the Board during its preliminary review of the proposal. The Hearing Officer was directed to order the Agency to submit amendatory language to correct these deficiencies prior to holding a hearing on this proposal for rulemaking. The Hearing Officer sent the Agency his Order on April 20, 1990.

The Board today acts to send this regulatory proposal to First Notice without ruling on the merits of the proposal. As noted previously, this proposal is required pursuant to Section 55.2 of the Act. The Board directs the Clerk of the Board to cause the publication of the proposal in the Illinois Register. Again, this action does not constitute the Board's adoption of a substantive position concerning the proposal.

In addition to the foregoing, the Board directs the Hearing Officer to set a hearing date for this proposal; to establish deadlines for the pre-filing of testimony and exhibits for those who wish to introduce evidence at the merit hearings; and, to establish deadlines for the pre-filing of questions. Those who do not pre-file such materials will be able to present their evidence only if time permits at the end of the hearing process. The Board believes that such procedures will accelerate the rulemaking process and at the same time provide continued opportunity for public participation.

The Board once again notes that by its action on April 12, 1990, the calculation of time during which the Board must determine whether or not an Economic Impact Study is necessary for this proposal began to run. Pursuant to Section 28 of the Act, that time is 21 days from date of first acceptance for hearing. Those wishing to comment on this aspect of the proceeding must do so within this time frame.

ORDER

The Board directs the Clerk to cause first notice publication in the Illinois Register of the following proposed rules:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER 1: POLLUTION CONTROL BOARD
SUBCHAPTER m: USED AND WASTE TIRES

PART 848
MANAGEMENT OF USED AND WASTE TIRES

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Illustration B "Certification of Acknowledgement"

Illustration C "Irrevokable Standy Letter of Credit"

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Illustration E "Corporate Guarantee for Removal of Used and Waste Tires"

AUTHORITY: Implementing Section 55.2 and authorized by Section 27 of the Environmental Protection Act ("Act") (Ill. Rev. Stat. ch. 111 1/2, pars. 1055.2 and 1027).

SOURCE: Adopted in R90- , at ____ Ill. Reg. ____ , effective _____.

NOTE: Capitalization denotes statutory language.

SUBPART A: GENERAL

Section 848.101 Applicability

This Part sets forth rules establishing requirements relative to the storage, processing, disposal and transportation of used and waste tires. The requirements set forth in these rules are in addition to, and do not supplant, the prohibitions, standards, and requirements set forth in Section 55 of the Environmental Protection Act ("Act") (Ill. Rev. Stat. ch. 111 1/2, par. 1055).

Section 848.102 Severability

If any section, subsection, sentence or clause of this Part shall be adjudged unconstitutional, invalid or otherwise not effective for any reason, such adjudication shall not affect the validity of this Part as a whole or of any section, subsection, sentence or clause thereof not adjudged unconstitutional, invalid or otherwise not effective for any reason.

Section 848.103 Other Regulations

- a) Unless otherwise expressly stated, persons and facilities subject to this Part are also subject to other Board regulations. Applicability is determined on the basis of the language in the other provisions.
- b) The following are specific examples of other provisions which may be applicable to facilities subject to this Part:
 - 1) Facilities combusting used and waste tires in enclosed devices are subject to Subtitle B: Air Pollution.
 - 2) Facilities which discharge wastewater to waters of the State or sewers are subject to Subtitle C: Water Pollution.
 - 3) Facilities processing used and waste tires are subject to Subtitle H: Noise Pollution.
 - 4) Transporters are subject to 35 Ill. Adm. Code 809: Special Waste Hauling, if used and waste tires are commingled with special wastes in transport
 - 5) Facilities disposing used and waste tires are subject to 35 Ill. Adm. Code 807

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 therein. Words and terms not defined shall have the meanings otherwise set forth in the Act and regulations adopted thereunder.

"Aisle" means an accessible clear space between storage piles or groups of piles suitable for housekeeping operations, visual inspection of 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. (Ill. Rev. Stat. 1989 Ch. 111 1/2, par. 1054.01)

"CONVERTED TIRE" MEANS A USED TIRE WHICH HAS BEEN MANUFACTURED INTO A USABLE COMMODITY OTHER THAN A TIRE. "CONVERSION" OR "CONVERTING" MEANS ACTION WHICH PRODUCES A CONVERTED TIRE. USABLE PRODUCTS MANUFACTURED FROM TIRES, WHICH PRODUCTS 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. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.02)

"COVERED TIRE" MEANS A USED TIRE LOCATED IN A BUILDING, VEHICLE OR FACILITY WITH A ROOF EXTENDING OVER THE TIRE, OR SECURELY LOCATED UNDER A MATERIAL SO AS TO PRECLUDE EXPOSURE TO PRECIPITATION. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.03)

"DISPOSAL" MEANS THE PLACEMENT OF USED TIRES INTO OR ON ANY LAND OR WATER EXCEPT AS AN INTEGRAL PART OF SYSTEMATIC REUSE OR CONVERSION IN THE REGULAR COURSE OF BUSINESS. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.04)

"NEW TIRE" MEANS A TIRE WHICH HAS NEVER BEEN PLACED ON A VEHICLE WHEEL RIM. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.05)

"PROCESSING" MEANS THE ALTERING, CONVERTING OR REPROCESSING OF USED OR WASTE TIRES. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.06)

"REPROCESSED TIRE" MEANS A USED TIRE WHICH HAS BEEN RECAPPED, RETREADED OR REGROOVED AND WHICH HAS NOT BEEN PLACED ON A VEHICLE WHEEL RIM. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.07)

"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. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.08)

"STORAGE" MEANS ANY ACCUMULATION OF USED TIRES THAT DOES NOT CONSTITUTE DISPOSAL. AT A MINIMUM, SUCH AN ACCUMULATION MUST BE AN INTEGRAL PART OF THE SYSTEMATIC ALTERATION, REUSE, REPROCESSING OR CONVERSION OF THE TIRE IN THE REGULAR COURSE OF BUSINESS. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.09)

"TIRE" MEANS A HOLLOW RING, MADE OF RUBBER OR SIMILAR MATERIALS, WHICH WAS MANUFACTURED FOR THE PURPOSE OF BEING PLACED ON THE WHEEL RIM OF A VEHICLE. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.10)

"TIRE DISPOSAL SITE" MEANS A SITE WHERE USED TIRES HAVE BEEN

DISPOSED OF OTHER THAN A SANITARY LANDFILL PERMITTED BY THE AGENCY. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.11)

"TIRE STORAGE SITE" MEANS A SITE WHERE USED TIRES ARE STORED OR PROCESSED, OTHER THAN

- 1) THE SITE AT WHICH THE TIRES WERE SEPARATED FROM THE VEHICLE WHEEL RIM,
- 2) THE SITE WHERE THE USED TIRES WERE ACCEPTED IN TRADE AS PART OF A SALE OF NEW TIRES, OR
- 3) A SITE AT WHICH 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.
(Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.12)

"Tire Storage Unit" means a pile of tires or a group of piles of tires.

"Tire Transporter" means a person who transports used or waste tires in a vehicle.

"USED TIRE" MEANS A WORN, DAMAGED OR DEFECTIVE TIRE WHICH IS NOT MOUNTED ON A VEHICLE WHEEL RIM. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.13)

"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. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.14)

"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. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.15)

"WASTE TIRE" MEANS A USED TIRE THAT HAS BEEN DISPOSED OF. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1054.16)

SUBPART B: MANAGEMENT STANDARDS

Section 848.201 Applicability

- a) Owners and operators of tire disposal sites and tire storage sites whose operations are not specifically exempted by subsections (b) through (d) shall:
 - 1) Meet the requirements of this Subpart 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 Subpart 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.
- b) 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 Subpart. Sites where less than 50 used or waste tires are disposed are not exempted from the requirements of this Subpart.
 - c) The requirements of this Subpart do not apply to used or waste tires disposed in permitted areas of sanitary landfills permitted by the Agency pursuant to 35 Ill. Adm. Code 807. Any used or waste tires thus disposed shall not be included in determining the number of tires for purposes of the requirements of this Subpart. Used or waste tires stored at a sanitary landfill permitted pursuant to 35 Ill. Adm. Code 807 are subject to the requirements of this Subpart.
 - d) Used tires stored within a building are not subject to the requirements of this Subpart if:
 - 1) the building has a roof extending over all sides of the building which is impermeable to precipitation; and
 - 2) all windows and doors are in working order and are secured to prevent unauthorized access.

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.
- b) At sites at which not more than 500 used or waste tires are located the following requirements shall apply.
 - 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 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 tires received at the site before June 1, 1989, shall be altered, reprocessed, converted, covered or otherwise prevented from accumulating water by no later than January 1, 1992.
 - 5) Used or waste tires shall not be abandoned, dumped or disposed on private or public property in Illinois, except in a sanitary landfill permitted by the Agency pursuant to 35 Ill. Adm. Code Part 807.
 - 6) Used or waste tires shall not be accepted from a vehicle in which more than 10 tires are loaded unless the tires were transported to the site:
 - A) in an enclosed vehicle or in a vehicle in which the tires were covered with a material impermeable to water; and
 - B) the vehicle displays a placard issued by the Agency under Section 848: Subpart F.
 - 7) Tires shall not be accumulated in an area if the grade of this area exceeds two percent slope unless the requirements of subsection (d)(3) of this Section are met.
- c) In addition to the requirements set forth in subsection (b), the following requirements shall apply at sites at which more than 500 used or waste tires are located.
- 1) The owner or operator shall have and maintain a contingency plan which meets the requirements of Section 848.203.
 - 2) The owner or operator shall maintain records in accordance with Section 848: Subpart C.
 - 3) 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 (in feet)			
	8	12	16	20
25	56	67	77	
Unit Face 50	75	93	107	118
Dimension 100	100	128	146	164
(in feet) 150	117	149	178	198
200	130	167	198	226
250	140	181	216	245

- d) In addition to the requirements set forth in subsections (b) and (c) of this Section, the following requirements shall apply at sites at which more than 2,500 used or waste tires are located.
 - 1) The area of the site where used or waste tires are stored shall be completely surrounded by fencing in good repair which is not less than 6 feet in height.
 - 2) Entrance to the area where used or waste tires are located shall be controlled at all times by an attendant, locked entrance, television monitors, controlled roadway access or other equivalent mechanisms.

- 3) The area of the site where used or waste tires are stored shall be completely surrounded by an earthen berm or other structure not less than 2 feet in height. The owner or operator shall provide a means for access through or over the berm or other structure accessible by fire fighting equipment.

Section 848.203 Contingency Plan

- 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 contingency plan must meet the requirements of this Section.
- b) The contingency plan must be designed to minimize the hazards to human health and the environment from fires and run-off of contaminants resulting from fires and from disease-spreading mosquitoes and other nuisance organisms which may breed in water accumulations in used or waste tires.
- c) The provisions of this plan must be carried out immediately whenever there is a fire or run-off, which could threaten human health or the environment, or evidence of insect production in used or waste tires.
- d) The contingency plan must describe the actions site personnel must take in response to fires, run-off resulting from fires and insect breeding in used or waste tires.
- e) This plan must include an evacuation plan for site personnel. This plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by fire). The plan must include a pesticide application plan for control of insect breeding in used and waste tires. After July 1, 1994, pesticides may only be applied to tires as provided in the contingency plan in response to:
- 1) evidence of insect production in used or waste tires; and
 - 2) after notice to the Agency that pesticides will be applied.
- f) A copy of the contingency plan and all revisions to the plan must be maintained at the site, 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.
- g) The contingency plan must be reviewed and immediately amended, if the plan fails in an emergency, the site changes in a way that materially increases the potential risk for fires, run-off from

fires or insect breeding or the list of emergency coordinators changes.

- h) At all times, there must be at least one employee, either on the site premises or on call, with responsibility for coordinating all emergency response measures. This emergency coordinator 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. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

SUBPART C: RECORDKEEPING AND REPORTING

Section 848.301 Applicability

If an owner or operator of a tire storage site or a tire disposal site is required by Section 848.202 to maintain records in accordance with this Subpart, the records and recordkeeping shall meet the requirements of this Subpart.

Section 848.302 Records

- a) The owner and operator 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
- b) Each Annual Tire Summary submitted to the Agency shall be in a form as prescribed by the Agency.

Section 848.303 Daily Tire Record

- a) The Daily Tire Record shall be maintained at the site and shall include the day of the week, the date, the Agency designated site number and the site name and address.
- b) The following information relative to used and waste tires shall be recorded in the Daily Tire Record:
- 1) The number and weight of whole tires and the weight of chopped or shredded of tires received at the site during the operating business day.
 - 2) The number and weight of whole tires and the weight of chopped or shredded tires transported from the site during the operating business day and the destination of the tires so transported.

- 3) The total number of whole tires remaining in storage at the conclusion of the operating business day.
 - 4) The number and weight of whole tires and the weight of chopped or shredded tires burned or combusted during the operating business day.
- c) Entries on the Daily Tire Record as required by subsection (a) shall be made contemporaneously with the receipt or transport of each load, unless the 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 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.

Section 848.304 Annual Tire Summary

- a) An Annual Tire Summary shall be maintained at the site and shall include the Agency designated site number, the site name and address and the calendar year for which the summary applies.
- b) The following information relative to Used and Waste Tires shall be recorded in the Annual Tire Summary.
 - 1) The number and weight of whole tires and the weight of chopped or shredded tires received at the site during the calendar year.
 - 2) The number and weight of whole tires and the weight of chopped or shredded tires transported from the site during the calendar year.
 - 3) The total number of whole tires remaining in storage at the conclusion of the calendar year.
 - 4) The number and weight of whole tires and the weight of chopped or shredded tires burned as fuel or combusted as waste during the calendar year.
- c) The Annual Tire Summary shall be received by the Agency on or before January 31 of each year and shall cover the preceding calendar year.

Section 848.305 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.

Section 848.306 Certification

- a) All records, summaries or reports submitted to the Agency as required by this Subpart shall be signed by a person responsible for preparing and reviewing 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 shall make the following certification:

I certify that this document and all attachments were prepared under my direction or supervision. 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 for submitting false information, including the possibility of fine and imprisonment for knowing violations.

SUBPART D: FINANCIAL ASSURANCE

Section 848.401 Applicability

- a) The requirements of this Subpart shall apply to owners and operators of tire storage sites and tire disposal sites, except as provided otherwise in this Section.
- b) Unless exempted by subsection (c), for tire storage sites and tire disposal sites where used or waste tires are disposed or stored prior to January 1, 1992, owners and operators shall comply with the requirements of this Subpart by January 1, 1992. Unless exempted by subsection (c), for tire storage sites and tire disposal sites where used or waste tires are first stored or disposed after January 1, 1992, owners and operators shall comply with the requirements of this Subpart prior to storing or disposing any used or waste tires at the site.
- c) The following owners and operators of tire storage sites and tire disposal sites are exempted from the requirements of this Subpart:
 - 1) Owners and operators where the real estate of the site is owned by the federal government or an agency thereof, the State or Illinois or an agency thereof or a unit of local government.

- 2) Owners and operators of tire disposal sites where the site has been permitted by the Agency under 35 Ill. Adm. Code 807 for the disposal of solid waste at a sanitary landfill. If used or waste tires are stored at the site in addition to being disposed at the site then the storage activities, unless otherwise exempted, are subject to the requirements of this Subpart.
- 3) Owners and operators 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 notice of activity annually submitted to the Agency under Section 55(c) of the Act.
- 4) Owners and operators where, as reported on the notice of activities annually submitted to the Agency under Subsection 55(c) of the Act, less than 5000 used or waste tires are stored at the site and less than 50 used or waste tires have been disposed, if the owner or operator has not been issued 2 written notices under Section 55.5 in any calendar year for violation of subsection (a), (b) or (c) of Section 55.
- 5) Owners and operators of tire disposal sites where written approval of a tire removal agreement has been obtained from the Agency under Section 848: Subpart E and tires have been or are being removed from the site in accordance with the schedule in the tire removal agreement.

Section 848.402

Cost Estimate for Tire Removal

- a) Beginning January 1, 1992, the owner or operator shall annually submit to the Agency a written estimate of the cost of removing all used and waste tires from the site. The cost estimate shall be submitted with the notice of activity annually submitted to the Agency under Section 55(c) of the Act.
- b) The estimate must equal the cost of removing the maximum number of used and waste tires reported on the notice of activity for the calendar year as submitted to the Agency under Section 55(c) of the Act.
- c) The estimate must be based on the costs to the owner or operator of hiring a third party to remove the used and waste tires from the site. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. Notwithstanding the above, an owner or operator may use costs to the Agency under a contract to perform tire removal actions for the area in which the site is located as a basis for determining the removal cost estimate.

Section 848.403

Financial Assurance for Tire Removal

An owner or operator shall establish financial assurance for the removal of used and waste tires from the site. The owner or operator shall choose from the options as specified in subsections (a) through (c).

a) Removal trust fund.

- 1) An owner or operator may satisfy the requirements of this Section by establishing a removal trust fund which conforms to the requirements of this paragraph and submitting an original, signed duplicate of the trust agreement to the Agency. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.
- 2) The wording of the trust agreement must be as specified in Section 848.Appendix A, Illustration A and the trust agreement must be accompanied by a formal certification of acknowledgment as specified in Section 848.Appendix A, Illustration B. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current removal cost estimate covered by the agreement.
- 3) Payments into the trust fund must be made annually by the owner or operator over the 5 years beginning January 1, 1992, or the date used or waste tires are first received, whichever is later. This period is hereafter referred to as the "pay-in period." The payments into the removal trust fund must be made as follows:

- A) The first payment must be made before January 1, 1992 or the date used or waste tires are first received at the facility, whichever is later. The first payment must be at least equal to the current removal cost estimate, except as provided in subsection (f), divided by 5.
- B) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

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

where CE is the current removal cost estimate, CV is the current value of the trust fund and Y is the number of years remaining in the pay-in period.

- 4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current removal cost estimate at the time the fund is established. However, the owner or operator shall maintain the value of the fund at no less than the value that the fund would have if annual

payments were made as specified in subsection (a)(3).

- 5) If the owner or operator establishes a removal trust fund after having used one or more alternate mechanisms specified in this Section, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (a)(3).
- 6) After the pay-in period is completed, the owner or operator shall annually compare the removal cost 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 most recent estimate, the owner or operator, within 120 days after the change in the cost estimate, shall either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current removal cost estimate, or obtain other financial assurance as specified in this Section to cover the difference.
- 7) If the value of the trust fund is greater than the total amount of the current removal cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current removal cost estimate.
- 8) If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current removal cost estimate covered by the trust fund.
- 9) Within 90 days after receiving a request from the owner or operator for release of funds as specified in subsections (a)(7) or (a)(8), the Agency shall instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.
- 10) After beginning partial or final removal, an owner or operator or another person authorized to conduct partial or final removal may request reimbursement for removal expenditures by submitting itemized bills to the Agency. The owner or operator may request reimbursement for partial removal only if sufficient funds are remaining in the trust fund to cover the maximum costs of removing all remaining used and waste tires. Within 60 days after receiving bills for partial or final removal activities, the Agency shall instruct the trustee to make reimbursement in those amounts as the Agency specifies in writing if the Agency determines that the partial or final removal expenditures are in accordance with the approved removal plan, or otherwise

justified. If the Agency determines that the maximum cost of removal over the remaining life of the facility will be significantly greater than the value of the trust fund, it shall withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with subsection (f), that the owner or operator is no longer required to maintain financial assurance for final removal of used and waste tires at the facility. If the Agency does not instruct the trustee to make such reimbursements, the Agency shall provide the owner or operator a detailed written statement of reasons.

- 11) The Agency shall agree to termination of the trust when:
 - A) An owner or operator substitutes alternate financial assurance as specified in this Section; or
 - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (f).

b) Removal letter of credit.

- 1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this paragraph and submitting the letter to the Agency. The issuing institution must be an entity 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.
- 2) The wording of the letter of credit must be as specified in Section 848. Appendix A, Illustration C.
- 3) An owner or operator who uses a letter of credit to satisfy the requirements of this Section shall also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements of the trust fund specified in subsection (a), except that:
 - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the letter of credit; and
 - B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations.

- i) Payments into the trust fund as specified in subsection (a).
 - ii) Updating of Schedule A of the trust agreement to show current removal cost estimates.
 - iii) Annual valuations as required by the trust agreement.
 - iv) Notices of nonpayment as required by the trust agreement.
- 4) 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 the following information: the EPA Identification Number, name and address of the site, and the amount of funds assured for removal of used and waste tires at the site by the letter of credit.
 - 5) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the 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.
 - 6) The letter of credit must be issued in an amount at least equal to the current removal cost estimate, except as provided in subsection (d).
 - 7) Whenever the current removal cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 120 days after the increase, shall either cause the amount of the credit to be increased so that it at least equals the current removal cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current removal cost estimate decreases, the amount of the credit may be reduced to the amount of the current removal cost estimate following written approval by the Agency.
 - 8) Following a failure by the owner or operator to perform final removal in accordance with the approved removal plan when required to do so, the Agency may draw on the letter of

credit.

- 9) If the owner or operator does not establish alternate financial assurance as specified in this Section and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency shall draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency shall draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this Section and obtain written approval of such assurance from the Agency.
 - 10) The Agency shall return the letter of credit to the issuing institution for termination when:
 - A) An owner or operator substitutes alternate financial assurance as specified in this Section; or
 - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (f).
- c) Financial test and corporate guarantee for closure.
- 1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test as specified in this paragraph. To pass this test the owner or operator shall meet the criteria of either subsection (c)(1)(A) or (c)(1)(B):
 - A) The owner or operator shall have:
 - i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;
 - ii) Net working capital and tangible net worth each at least six times the sum of the current removal cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting

to at least 90 percent of total assets or at least six times the sum of the current removal cost estimates.

- B) The owner or operator shall have:
- i) A current rating for its most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's;
 - ii) Tangible net worth at least six times the sum of the current removal cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current removal cost estimates.
- 2) The phrase "current removal cost estimates" as used in subsection (c)(1) refers to the cost estimates required to be shown in paragraphs 1-4 of the letter from the owner's or operator's chief financial officer (Section 848.Appendix A, Illustration D).
- 3) To demonstrate that the owner or operator meets this test, the owner or operator shall submit the following items to the Agency.
- A) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 848.Appendix A, Illustration D.
 - B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.
 - C) A special report from the owner's 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.

- 5) After the initial submission of items specified in subsection (c)(3), the owner or operator shall send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (c)(3).
- 6) If the owner or operator no longer meets the requirements of subsection (c)(1), the owner or operator shall send notice to the Agency of intent to establish alternate financial assurance as specified in this Section. 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. The owner or operator shall provide the alternate financial assurance within 120 days after the end of such fiscal year.
- 7) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (c)(1), require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (c)(3). If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (c)(1), the owner or operator shall provide alternate financial assurance as specified in this Section within 60 days after notification of such a finding.
- 8) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (c)(3)(B)). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency shall evaluate other qualifications on an individual basis. The owner or operator shall provide alternate financial assurance as specified in this Section within 30 days after notification of the disallowance.
- 9) The owner or operator is no longer required to submit the items specified in subsection (c)(3) when:
 - A) An owner or operator substitutes alternate financial assurance as specified in this Section; or
 - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (f).

- 10) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor shall be the parent corporation of the owner or operator. The guarantor shall meet the requirements for owners or operators in subsections (c)(1) through (c)(8) and shall comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be as specified in Section 848. Appendix A, Illustration E. The corporate guarantee must accompany the items sent to the Agency as specified in subsection (c)(3). The terms of the corporate guarantee must provide the following items:
- A) If the owner or operator fails to perform final removal of used and waste tires at a facility covered by the corporate guarantee the guarantor will do so or establish a trust fund as specified in subsection (a) in the name of the owner or operator.
 - B) The corporate guarantee will remain in force unless the guarantor sends 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.
 - C) If the owner or operator fails to provide alternate financial assurance as specified in this Section and obtain the written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.
- d) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of this Section by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds and letters of credit. The mechanisms must be as specified in subsections (a) and (b), respectively, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current removal cost estimate. If an owner or operator uses a trust fund in combination with a letter of credit, the owner or operator 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 Agency may use any or all of the mechanisms to provide for removal of used and waste tires from the site.

- e) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in this Section to meet the requirements of this Section for more than one facility. Evidence of financial assurance submitted to the Agency must include a list showing, for each facility, name, address and the amount of funds for removal 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 facility. The amount of funds available to the Agency must be sufficient to remove used and waste tires at all of the owner or operator's facilities. In directing funds available through the mechanism for removal of used and waste tires at any of the facilities covered by the mechanism, the Agency may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.
- f) Release of the owner or operator that final removal has been completed in accordance with the approved removal plan. The Agency shall notify the owner or operator in writing that the owner or operator is no longer required by this Section to maintain financial assurance for removal of used and waste tires at the facility, unless the Agency determines that removal has not been in accordance with the approved removal plan. The Agency shall provide the owner or operator a detailed written statement of any such determination that removal has not been in accordance with the approved removal plan.
- g) Appeal. The following Agency actions are deemed to be permit modifications or refusals to modify for purposes of appeal to the Board.
- 1) An increase in, or a refusal to decrease the amount of a letter of credit or a trust fund.
 - 2) Requiring alternate assurance upon a finding that an owner or operator, or parent corporation, no longer meets a financial test.

SUBPART E: TIRE REMOVAL AGREEMENTS

Section 848.501 Applicability

- a) By January 1, 1992, the owner or operator of a tire disposal site 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 (Ill. Rev. Stat. 1989 ch. 111 1/2, par.

- 1055.4); or
- 2) The owner or operator has received a permit from the Agency pursuant to the requirements of 35 Ill. Adm. Code 807 for permitting the disposal of solid waste at sanitary landfills; or
 - 3) The owner or operator has submitted a complete written proposal 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 reasonably 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 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 807 for the disposal of solid waste in sanitary landfills or be subject to a consensual removal action under Section 55.3(c) of the Act.
- c) For tire disposal sites at which used or waste tires are first disposed after January 1, 1992, prior to disposing any used or waste tires the owner or operator shall obtain a permit from the Agency pursuant to the requirements of 35 Ill. Adm. Code 807 for permitting the disposal of solid wastes at sanitary landfills.

Section 848.502 Removal Performance Standard

THE OWNER OR OPERATOR OF A TIRE DISPOSAL SITE REQUIRED TO FILE AND RECEIVE APPROVAL OF A TIRE REMOVAL AGREEMENT UNDER this Subpart E SHALL REMOVE USED OR WASTE TIRES FROM THE SITE IN A MANNER THAT:

- a) MINIMIZES THE NEED FOR FURTHER MAINTENANCE;
- b) REMOVES ALL USED AND WASTE TIRES AND ANY RESIDUES THEREFROM; AND
- c) PROTECTS HUMAN HEALTH DURING THE REMOVAL AND POST REMOVAL PERIODS. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1055.4)

Section 848.503 Contents of Proposed Tire Removal Agreements

- a) A proposed TIRE REMOVAL AGREEMENT SUBMITTED TO THE AGENCY for approval under this Subpart E SHALL INCLUDE THE FOLLOWING:
 - 1) A COMPLETE INVENTORY OF THE TIRES LOCATED ON THE SITE.
 - 2) A DESCRIPTION OF HOW THE REMOVAL WILL BE CONDUCTED IN ACCORDANCE WITH Section 848.502.

- 3) A DESCRIPTION OF THE METHODS TO BE USED DURING REMOVAL INCLUDING, BUT NOT LIMITED TO, THE METHODS FOR REMOVING, TRANSPORTING, PROCESSING, STORING OR DISPOSING OF TIRES AND RESIDUES, AND THE OFFSITE FACILITIES TO BE USED.
 - 4) A DETAILED DESCRIPTION OF OTHER ACTIVITIES NECESSARY DURING THE REMOVAL PERIOD TO ENSURE THAT THE REQUIREMENTS OF Section 848.502 ARE MET.
 - 5) A SCHEDULE OF COMPLETING THE REMOVAL OF TIRES FROM THE SITE, AS REQUIRED IN Section 848.504. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1055.4)
- 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. An owner or operator with an approved tire removal agreement shall submit a written request to the Agency to authorize a change to the approved tire removal agreement. The written request must include a copy of the amended tire removal agreement for approval by the Agency.
 - c) Nothing in this Section 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.

Section 848.504 Time Allowed for Tire Removal

- a) EACH APPROVED tire removal AGREEMENT SHALL INCLUDE A SCHEDULE BY WHICH THE OWNER OR OPERATOR MUST COMPLETE THE REMOVAL ACTIVITIES. THE TOTAL TIME ALLOWED SHALL NOT EXCEED THE FOLLOWING:
 - 1) ONE YEAR IF THE SITE CONTAINS 1,000 TIRES OR LESS;
 - 2) TWO YEARS IF THE SITE CONTAINS MORE THAN 1,000 TIRES BUT LESS THAN 10,000 TIRES;
 - 3) FIVE YEARS IF THE SITE CONTAINS 10,000 OR MORE 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 if the removal activities can be reasonably completed within such lesser amount of time. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1055.4)

Section 848.505 Certification of Removal Completion

WITHIN 60 DAYS AFTER THE COMPLETION OF REMOVAL ACTIVITIES UNDER AN APPROVED tire removal AGREEMENT under this Subpart E, THE OWNER OR OPERATOR SHALL SUBMIT TO THE AGENCY A CERTIFICATION THAT THE SITE OR THE AFFECTED PORTION OF THE SITE subject to a tire removal agreement HAS BEEN CLEARED OF TIRES IN ACCORDANCE WITH THE APPROVED tire removal AGREEMENT. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1055.4)

Section 848.506 Agency Approval

FOR A SITE AT WHICH THE OWNER OR OPERATOR IS PROPOSING TO PROCEED WITH REMOVAL under a tire removal agreement, rather than obtaining a permit under 35 Ill. Adm. Code 807 for the disposal of solid waste in a sanitary 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. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1055.4)

Section 848.507 Board Review

MODIFICATION OF OR REFUSAL TO MODIFY A proposed tire 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 appeal pursuant to 35 Ill. Adm. Code 105. (Ill. Rev. Stat. 1989 ch. 111 1/2, par. 1055.4)

SUBPART F: TIRE TRANSPORTATION REQUIREMENTS

Section 848.601 Tire Transportation Prohibitions

- a) Except as provided in Subsection (c), no person shall transport more than 10 used or waste tires in a vehicle unless the following requirements are met.
 - 1) The owner or operator has registered the vehicle with the Agency in accordance with this Subpart, received approval of such registration from the Agency, and such registration is current, valid and in effect.
 - 2) 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 tires are covered by a material or roof impermeable to water.
- b) No person shall provide, deliver or transport used or waste tires to a tire transporter for transport unless the vehicle displays a

placard issued by the Agency under this Subpart identifying the transporter as a registered tire hauler.

- c) The requirements set forth in subsections (a) and (b) shall only apply to tires transported from tire disposal sites, tire storage sites, sites where used tires were accepted in trade as part of a sale of new tires or sites at which both new and used tires are sold at retail in the regular course of business.

Section 848.602 Tire Transportation Registrations

- a) Tire transportation registrations shall be made on application forms prescribed by the Agency which as a minimum shall require the following information:
- 1) Name, address, telephone number and location of the vehicle owner and operator.
 - 2) A description of the number and types of vehicles to be used.
 - 3) An agreement by the vehicle owner and identified operator that:
 - A) Tire loading, transportation and unloading will be conducted in compliance with all applicable state and federal laws and regulations.
 - B) All vehicles used in tire transportation will be clean and in good repair at all times when so employed.
 - C) No tires shall be transported with other wastes on one vehicle if 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 and regulation.
 - D) The equipment and procedures to be used shall be proper for the tire transportation to be safe for the haulers, handlers, and others, and meet the requirements of all other applicable state and federal laws and regulations.
- b) All tire transporter registrations shall be signed by the owner and operator of the vehicle; or, in the name of the owner and operator, by the owner's and operator's duly authorized agent when accompanied by evidence of authority to sign the application.

Section 848.603 Agency Approval of Registrations

- a) Tire transporter registration applications shall be deemed to be filed on the date of initial receipt by the Agency of a properly

completed application on the form prescribed.

- b) If the Agency fails to take final action approving or denying approval of this registration within 90 days from the filing of the completed application, the 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 shall be deemed to have taken final action on the date that the notice of final action is mailed.
- d) The Agency shall require the application to be complete and consistent with the provisions of the Act and Board regulations and may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application. If the application is complete and the approval thereof will not cause a violation of the Act or Board regulations, the Agency shall approve the registration.
- e) In approving tire transporter registrations hereunder, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act and the Board regulations.
- f) The 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.
- h) No tire transporter registration is transferable from one person to another. A tire transporter registration is personal to the person(s) named in the tire transporter registration.
- i) Violation of any conditions or failure to comply with any provisions of the Act or with any Board regulation shall be grounds for sanctions as provided in the Act, including revocation of the registration as herein provided and the denial of applications for renewal.

Section 848.604

Registration No Defense

The existence of an approved tire transporter registration under these rules shall not provide the transporter with a defense to a violation of the Act or Board regulations, except for hauling used or waste tires without an approved tire transporter registration.

Section 848.605

Duration and Renewal

- a) All registrations approved hereunder shall be effective for a

period of two years from the date of approval and are renewable.

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

Section 848.606 Vehicle Placarding

- a) Upon approval of a registration as a tire transporter, the owner or operator of any vehicle registered to transport used or waste tires shall place a placard on opposite sides of the vehicles which displays a number issued by the Agency following the words "Registered Tire Transporter: (number)."
- b) Numbers and letters shall be removable only by destruction. Directly adjacent to the words and number, the vehicle owner and operator shall display a seal furnished by the Agency which shall designate the date on which the registration expires.

Section 848.APPENDIX A, ILLUSTRATION A "TRUST AGREEMENT"

Trust Fund Number _____

Trust Agreement, the "Agreement," entered into as of _____
 _____ by and between _____
 _____, the "Grantor," and _____
 _____, _____, the "Trustee."

Whereas, the Illinois Pollution Control Board, "IPCB," has established certain regulations applicable to the Grantor, requiring that owners or operators of tire storage sites and tire disposal sites shall 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 herein.

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.

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.
- (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, for each site list the IEPA Identification Number, name, address, and the current removal cost estimates, or portions thereof, 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 Environmental Protection Agency (IEPA). The Grantor and the Trustee intend that no other third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. 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 IEPA.

Section 4. Payment for Used and Waste Tire Removal. The Trustee shall make payments from the Fund as the IEPA Director shall direct, in writing, to provide for the payment of the costs of removal of used and waste tires at the sites covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the IEPA Director from the Fund for removal expenditures in such amounts as the IEPA Director shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the IEPA Director 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 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;

- (i) Securities or other obligations of the Grantor, or any other owner or operator of the sites, or any of their affiliates as defined in 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 or a State government;

- (ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and
- (iii) 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 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 expediency 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 herein granted;
- (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 the Federal or State government; 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, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the IEPA Director a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. 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 IEPA Director 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

assumed administration of the trust in a writing sent to the Grantor, the IEPA Director, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts of 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 IEPA Director to the Trustee shall be in writing, signed by the IEPA Director or 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 IEPA, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the IEPA Director, by certified mail within 10 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 that 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 IEPA Director, or by the Trustee and the 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 IEPA Director, or by the Trustee and the 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 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.

Attest	Signature of Grantor	Attest	Signature of Trustee
	_____		_____
	Typed Name	Typed Name	
	_____	_____	
	Title	Title	
	_____	_____	
	Seal	Seal	

Section 848.APPENDIX A, ILLUSTRATION B "CERTIFICATION OF ACKNOWLEDGEMENT"

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ by _____ of _____ a _____ on behalf of the corporation.

Signature of Notary Public

Seal

Section 848.APPENDIX A, ILLUSTRATION C "IRREVOCABLE STANDBY LETTER OF CREDIT"

Director
Illinois Environmental Protection Agency
2200 Churchill Road

Springfield, Illinois 62794

Dear Sir or Madam:

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, Ill. Rev. Stat., ch. 111 1/2, par.
1001 et seq., as amended."

This letter of credit is effective as of _____
and shall expire on _____ but such expiration date
shall 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.

Signature

Signature

Typed Name

Typed Name

Title

Title

Date

Date

Name and address of issuing institution.

This credit is subject to _____

Section 848.APPENDIX A, ILLUSTRATION D "LETTER FROM CHIEF FINANCIAL OFFICER"

Director
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62794

Dear Sir or Madam:

I am the chief financial officer of _____
_____.

This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in Subpart D of 35 Illinois Administrative Code Part 848.

1. This firm is the owner or operator of the following sites for which financial assurance for removal of used and waste tires is demonstrated through the financial test specified in Subpart D of 35 Ill. Adm. Code Part 848. The current removal cost estimates covered by the test are shown for each facility: (LIST ALL THE ILLINOIS FACILITIES USING THE FINANCIAL TEST)

<u>IEPA I.D. No.</u> _____	<u>Removal</u>
<u>Amount</u>	
<u>Name</u> _____	
<u>Address</u> _____	_____

<u>City</u> _____	

<u>IEPA I.D. No.</u> _____	
<u>Name</u> _____	
<u>Address</u> _____	_____

City _____

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

- 2. This firm guarantees, through the corporate guarantee specified in Subpart D of 35 Ill. Adm. Code Part 848, the removal of all used and waste tires at the following sites owned or operated by subsidiaries of this firm. The current removal cost estimates so guaranteed are shown for each site: (LIST ALL THE ILLINOIS FACILITIES USING THE CORPORATE GUARANTEE)

IEPA I.D. No. _____
Amount _____

Removal

Name _____

Address _____

City _____

IEPA I.D. No. _____

Name _____

Address _____

City _____

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

- 3. This firm is the owner or operator of the following tire storage sites and tire disposal sites for which financial assurance for removal of used and waste tires, is NOT demonstrated to IEPA, through the financial test or any other financial assurance mechanism specified in Subpart D of 35 Ill. Adm. Code Part 848. The current removal cost estimates not covered by such financial assurance are shown for each facility: (LIST FACILITIES WHERE THERE IS NO FINANCIAL ASSURANCE REQUIREMENT)

IEPA I.D. No. _____

Removal
Amount

Name _____

Address _____

City _____

IEPA I.D. No. _____

Name _____

Address _____

City _____

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

This firm _____ to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on _____. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended _____.

Alternative I

1. Sum of current removal cost estimates (total of all cost estimates shown in the three paragraphs above)
\$ _____
- *2. Total liabilities (if any portion of the removal 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% of firm's assets are located in the U.S.)
 \$ _____
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% 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

Alternative II

1. Sum of current removal cost estimates (total of all cost estimates shown in the three 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 removal cost estimates is included in "total liabilities" 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% 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% 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

Section 848.APPENDIX A, ILLUSTRATION E "CORPORATE GUARANTEE FOR REMOVAL OF USED AND WASTE TIRES"

Guarantee made this _____ by _____, a business corporation organized under the laws of the State of _____, herein referred to as guarantor, to the Illinois Environmental Protection Agency (IEPA), obligee, on behalf of our subsidiary _____ of _____.

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Subpart D of 35 Illinois Administrative Code 848.
2. _____ owns or operates the following tire storage sites and tire disposal sites covered by this guarantee:

IEPA I.D. No. _____
Amount _____

Removal

Name _____

Address _____

City _____

IEPA I.D. No. _____

Name _____

Address _____

City _____

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

3. "Tire Removal Agreement" as used below refers to the agreement maintained as required by Subpart E of 35 Illinois Administrative Code Part 848 for the removal of used and waste tires at sites as identified above.
4. For value received from _____, guarantor guarantees to IEPA that in the event that _____ fails to perform _____ of the above site(s) in accordance with the tire removal agreements and other requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in Subpart D of 35 Illinois Administrative Code Part 848, as applicable, in the name of _____ in the amount of the current tire removal cost estimates as specified in Subpart D of 35 Illinois Administrative Code Part 848.
5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the IEPA Director and to _____ that he intends to provide alternate financial

assurance as specified in Subpart D of 35 Illinois Administrative Code Part 848, as applicable, in the name of _____
 _____. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless _____
 _____ has done so.

6. The guarantor agrees to notify the IEPA Director by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.
7. Guarantor agrees that within 30 days after being notified by the IEPA Director of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor, he shall establish alternate financial assurance as specified in Subpart D of 35 Illinois Administrative Code Part 848, as applicable, in the name of _____ unless _____ has done so.
8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the tire removal agreement, the extension or reduction of the time of performance of tire removal, or any other modification or alteration of an obligation of the owner or operator pursuant to 35 Illinois Administrative Code Part 848.
9. Guarantor agrees to remain bound under this guarantee for so long as _____ must comply with the applicable financial assurance requirements of Subpart D of 35 Illinois Administrative Code Part 848 for the above listed facilities, except that guarantor may cancel this guarantee by sending notice by certified mail to the IEPA Director, such cancellation to become effective no earlier than 120 days after receipt of such notice by both IEPA and _____ as evidenced by the return receipts.
10. Guarantor agrees that if _____ fails to provide alternate financial assurance as specified in Subpart D of 35 Illinois Administrative Code Part 848, as applicable, and obtain written approval of such assurance from the IEPA Director within 90 days after a notice of cancellation by the guarantor is received by the IEPA Director from guarantor, guarantor shall provide such alternative financial assurance in the name of _____.
11. Guarantor expressly waives notice of acceptance of this guarantee by the IEPA Director or by _____. Guarantor also expressly waives notice of amendments or modifications of the tire removal agreement and amendments or modifications of any applicable site permits.

Effective date:

Name of guarantor

Authorized signature for guarantor

Typed name

Title

Signature of witness or notary

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the _____ day of _____, 1990, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board