

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

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

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

NOTE: Statutory language is denoted by capital letters.

SUBPART A: GENERAL

Section 848.101 Applicability

Section 55 of the Illinois Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, 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. 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");
- b) Converted, new or reprocessed tires; or
- c) Reused tires which have been altered to prevent the accumulation of water.

(Source: Amended in R90-9(B) at 16 Ill. Reg. 3114, effective February 14, 1992)

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) The requirements of this Part are in addition to other requirements in the Act or Board regulations. In case of conflict, applicability will be determined on the basis of considerations such as, but not limited to, the degree to which the statutory language in the Act or Board regulation is expressly stated or

necessarily implied, United States Environmental Protection Agency program authorization requirements, and the comparative stringency of the regulations.

- b) The following are examples of other regulations which may be applicable to facilities subject to this Part: 35 Ill. Adm. Code: Subtitle B: Air Pollution; 35 Ill. Adm. Code: Subtitle C: Water Pollution; 35 Ill. Adm. Code: Subtitle H: Noise Pollution; and 35 Ill. Adm. Code: Subtitle G: Waste Disposal.

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

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

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

"NEW TIRE" MEANS A TIRE WHICH HAS NEVER BEEN PLACED ON A VEHICLE WHEEL RIM. (Section 54.05 of the Act)

"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. (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. (Section 54.07 of the Act)

"Retread" or "Retreading" means the process of attaching tread to the 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. (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. (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. (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. (Section 54.10(a) of the Act)

“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 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 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. (Section 54.12(a) of the Act)

“TIRE TRANSPORTER” MEANS A PERSON WHO TRANSPORTS USED OR WASTE TIRES IN A VEHICLE. (Section 54.12(b) of the Act)

"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. (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. (Section 54.15 of the Act)

"WASTE TIRE" MEANS A USED TIRE THAT HAS BEEN DISPOSED OF. (Section 54.16 of the Act)

(SOURCE: Amended at 22 Ill. Reg. 11420, effective June 23, 1998)

Section 848.105 Incorporation by Reference

- a) The Board incorporates the following documents by reference:
 - 1) 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.

SUBPART B: MANAGEMENT STANDARDS

Section 848.201 Applicability

- a) 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.
- c) 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.

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 more than 50 used or waste tires are located the owner or operator shall comply with the following requirements:

- 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.
- c) In addition to the requirements set forth in subsection (b), the owner or operator shall comply with the following requirements at sites at which more than 500 used or waste tires are located.

- 1) A contingency plan which meets the requirements of Section 848.203 shall be maintained.
- 2) The recordkeeping and reporting requirements of Subpart C shall be met.
- 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				
		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	

- d) In addition to the requirements set forth in subsections (b) and (c), 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) 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, and capable of containing runoff resulting from tire fires, 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.

(Source: Amended at 16 Ill. Reg. 3114, effective February 14, 1992)

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 owner or operator must meet the contingency plan 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 resulting from a tire fire, or evidence of mosquito 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 tire fires, and mosquito breeding in used or waste tires.
- e) This contingency plan must include evacuation procedures for site personnel which 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 contingency plan must include provisions for pesticide application or other measures for control of mosquito breeding in used and waste tires.

- 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 amended within 30 days, if the plan fails in an emergency 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.

Section 848.204 Storage of Used and Waste Tires Within Buildings

- a) Owners or operators of tire storage sites or tire disposal sites who store used or waste tires within buildings shall meet the requirements of this Section.
- b) Used or waste tires may be stored within a building if:
 - 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 which are impermeable to precipitation; and
 - 4) the building is not a single family home or a residential dwelling.
- c) In addition to the requirements set forth in subsection (b), if 500 or more used or waste tires are stored within a building, then the owner or operator shall:
 - 1) develop a tire storage plan in consultation with the local fire department or the state fire marshal meeting the following requirements:
 - A) the plan shall be developed by considering the type of building to be used for tire storage, i.e. warehouse or grain elevator,

and the type of used or waste tires being stored, i.e. whole or shredded;

- B) the plan shall include, but not be limited to: the tire storage arrangement; aisle space if necessary; clearance distances between tire piles and the building ceiling, unit heaters, duct furnaces and sprinkler deflectors; and access to fire fighting personnel and equipment; and
 - C) 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) 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.
- 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.

Section 848.205 Pesticide Treatment

Owners or operators of tire storage sites or tire disposal sites treating used or waste tires with pesticides pursuant to this Part or Title XIV of the Act:

- a) Use a pesticide labelled for control of mosquito larvae unless an adult mosquito problem is identified.
- b) Maintain a record of pesticide use at the site. Such a record shall include the following information for each application:
 - 1) Date of pesticide application;
 - 2) Number of used or waste tires treated;
 - 3) Amount of pesticide applied; and
 - 4) Type of pesticide used.

- c) Notify the Agency of pesticide use within 10 days of each application. The notification shall include the information listed in subsection (b).
- d) Persons applying pesticides to used and waste tires must comply with the requirements of the Illinois Pesticide Act (Ill. Rev. Stat. 1989, ch. 5, par. 801 et seq.). Information is available from:

Illinois Department of Agriculture
Bureau of Plant & Apiary Protection
State Fairgrounds
P.O. Box 19281
Springfield, IL 62794-9281

(Source: Amended at 16 Ill. Reg. 3114, effective February 14, 1992)

Section 848.206 Exemptions for Tire Retreading Facilities

- 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

- c) 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: Added at 16 Ill. Reg. 3114, effective February 14, 1992)

Section 848.207 Exemptions for Tire Stamping and Die Cutting Facilities

- 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) Pile 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: Added at 16 Ill. Reg. 3114, effective February 14, 1992)

Section 848.208 Exemptions for Sites with a Tire Removal Agreement

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: Added at 16 Ill. Reg. 3114, effective February 14, 1992)

SUBPART C: RECORDKEEPING AND REPORTING

Section 848.301 Applicability

The requirements of this Subpart shall apply to an owner or operator of a tire storage site or a tire disposal site who is required by the management standards of Subpart B to maintain records in accordance with 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 owner or operator shall maintain the Daily Tire Record at the site; such record 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 weight or volume of used or waste tires received at the site during the operating business day.
 - 2) The weight or volume of used or waste tires transported from the site during the operating business day and the destination of the tires so transported.
 - 3) 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 or volume of used or waste tires burned or combusted during the operating business day.
- c) 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:

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

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 (e), 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.
- h) 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 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 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) The owner or operator shall maintain an Annual Tire Summary 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) The following information relative to used and waste tires shall be recorded in the Annual Tire Summary.
 - 1) The weight or volume of used or waste tires received at the site during the calendar year.
 - 2) The weight or volume of used or waste tires transported from the site during the calendar year.
 - 3) 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 or volume of used or waste tires combusted 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 designated by the owner or operator as 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 including the possibility of fine and imprisonment for knowingly submitting false information.

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.
- b) Unless exempted by subsection (c), owners and operators shall comply with this Subpart:
- 1) Prior to storing or disposing any used or waste tires, for sites where used or waste tires are first stored or disposed on or after January 1, 1992;
 - 2) By January 1, 1992, for sites where used or waste tires are disposed or stored prior to January 1, 1992.
- c) Owners and operators of tire storage sites and tire disposal sites are exempt from this Subpart with respect to the following types of sites:
- 1) Sites where the real estate of the site is owned by:
 - A) The United States or one of its agencies;
 - B) The State of Illinois or one of its agencies; or
 - C) A unit of local government.
 - 2) 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.
- 4) Sites where, as reported in the annual notice of activity, less than 5000 used or waste tires are stored at the site and 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 (c) of the Act.

Section 848.401 Upgrading Financial Assurance

- a) The owner or operator shall maintain financial assurance equal to or greater than the current cost estimate calculated pursuant to Section 848.404 at all times, except as otherwise provided by subsection (b).
- b) The owner or operator shall increase the total amount of financial assurance so as to equal the current cost estimate within 90 days after any of the following occurrences:
 - 1) An increase in the current cost estimate;
 - 2) A decrease in the value of a trust fund;
 - 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.

Section 848.402 Release of Financial Institution

The Agency shall release a trustee, bank, surety or other financial institution when:

- a) An owner or operator substitutes alternative financial assurance such that the total financial assurance for the site is equal to or greater than the current 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.

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. The filing of an enforcement action before the Board is not a condition precedent to such an Agency action, except when this Subpart or the terms of the instrument provide otherwise.
- b) As provided in Titles VIII and IX of the Act and 35 Ill. Adm. Code 103 and 104, the Board may order that an owner or operator modify a removal plan or order that proceeds from financial assurance be applied to the execution of a removal plan.
- c) The following Agency actions may be appealed to the Board as a permit denial pursuant to 35 Ill. Adm. Code 105:
 - 1) A refusal to accept financial assurance tendered by the owner or operator;
 - 2) A refusal to release the owner or operator from the requirement to maintain financial assurance;
 - 3) A refusal to release excess funds from a trust;
 - 5) 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.

Section 848.404 Removal Cost Estimate

- a) The owner or operator shall submit to the Agency a written estimate of the cost of removing all used and waste tires from the site.
 - 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) The owner or operator shall revise the cost estimate whenever a change in the removal plan increases the cost estimate.
- c) 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.
- d) The owner or operator shall base the cost estimate on 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.
- e) The cost estimate must, at a minimum, include all costs for all activities necessary to remove all used and waste tires in accordance with all requirements of this Part.
- f) Once the owner or operator has completed an activity, the owner or operator may revise the cost estimate indicating that the activity has been completed, and zeroing that element of the cost estimate.

Section 848.406 Mechanisms for Financial Assurance

The owner or operator may utilize any of the following mechanisms to provide financial assurance for removal of used and waste tires:

- a) A trust fund (Section 848.410);
- b) A letter of credit (Section 848.413);
- c) Self-insurance (Section 848.415).

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 per site. These mechanisms are limited to trust funds and letters of

credit. The mechanism must be as specified in 35 Ill. Adm. Code 848.410 and 848.413, respectively, except that it is the combination of mechanism, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current cost estimate. The owner or operator may use any or all of the mechanisms to provide for removal.

Section 848.408 Use of a Financial Mechanisms 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.

Section 848.410 Trust Fund

- a) An owner or operator may satisfy the requirements of this Subpart by establishing a trust fund which conforms to the requirements of this Section and submitting an original signed duplicate of the trust agreement to the Agency.
- b) The trustee shall be an entity which has the authority to act as a trustee and:
 - 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 on the forms specified in Appendix A, Illustration A, and the trust agreement must be accompanied by a formal certification of acknowledgment, on the form specified in Appendix A, Illustration B.
- d) Payments into the trust:
 - 1) The owner or operator shall make a payment into the trust fund each year during the pay-in period.

2) The pay-in period is five years. The pay-in period commences at one of the following times, whichever is later:

A) On the date 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 cost estimate

CV = Current value of the trust fund

Y = Number of years remaining in the pay in period.

4) The owner or operator shall make the first annual payment prior to beginning of the pay-in period. The owner or operator 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 accelerate payments into the trust fund, or may deposit the full amount of the current cost estimate at the time the fund is established.

7) The owner or operator 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 shall evaluate the trust fund annually, as of the day the trust was created or on such earlier date as may be provided in the agreement. The trustee shall notify the owner or operator and the Agency of the value within 30 days after the evaluation date.

f) Release of excess funds:

- 1) If the value of the financial assurance is greater than the total amount of the current 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 cost estimate.
- 2) Within 60 days after receiving a request from the owner or operator for a release of funds, the Agency 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 cost estimate.

g) Reimbursement for removal expenses:

- 1) After initiating removal, an owner or operator, or any other person authorized to perform removal, may request reimbursement for removal expenditures, by submitting itemized bills to the Agency.
- 2) Within 60 days after receiving the itemized bills for removal activities, the Agency shall determine whether the expenditures are in accordance with the removal plan. The Agency 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 cost of removal will be greater than the value of the trust fund, it 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, the Agency shall pay claims according to the following priorities:
 - A) Persons with whom the Agency has contracted to perform removal activities (first priority);
 - B) Persons who have completed removal 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).

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 which conforms to the requirements of this Section and submitting the letter to the Agency.
- b) The issuing institution shall be an entity which has the authority to issue letters of credit and:
 - 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 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 the following information: 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 must also establish a standby trust fund. Any amounts drawn by the Agency pursuant to the letter of credit 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 owner or operator shall submit a signed, duplicate original of the trust agreement to the Agency with the letter of credit; and
 - 2) Unless the standby trust is funded, the following are not required:
 - A) Payments into the trust fund.
 - B) Updating of Schedule A of the trust agreement to show the current cost estimates.

C) Annual valuations as required by the trust agreement.

D) Notices of nonpayment as required by the trust agreement.

e) Conditions on which the Agency may draw on the letter of credit:

1) The Agency 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 shall draw on the letter of credit 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 pursuant to Title VII of the Act, or when ordered to do so by a court of competent jurisdiction;

D) Notifies the Agency that it has initiated removal, or initiates removal, but fails to provide removal in accordance with the removal plan; or

E) 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 cost estimate.

2) The Agency shall approve a reduction in the amount whenever the current cost estimate decreases.

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 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 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.

- 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.

Section 848.415 Self-Insurance for Non-commercial Sites

- 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)).
- 2) Proof that the owner or operator meets the financial test (subsection (d)).

c) 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).

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 (Section 55.4 of the Act); or
 - 2) The owner or operator has received a permit from the Agency pursuant to the requirements of Subtitle G: Waste Disposal for the disposal of solid waste at landfills; 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 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) 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: Subtitle G: Waste Disposal for the disposal of solid wastes at 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. (Section 55.4 of the Act)

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. (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 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 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 completed within such lesser amount of time. (Section 55.4 of the Act)

Section 848.505 Removal Plan

- a) The removal plan is the approved tire removal agreement for the site, if one has been approved. Otherwise, the removal plan is the proposed tire removal agreement.
- b) An owner or operator who has provided financial assurance based on a proposed agreement shall provide substitute financial assurance based on the approved plan within 90 days after the Agency approves a tire removal agreement. This may consist of substitute financial assurance, or a letter from the financial institution acknowledging receipt of the approved plan and indicating no objection.

Section 848.506 Initiation of Tire Removal

- a) Any owner or operator who is required to obtain financial assurance under this Subpart shall submit a proposed tire removal agreement to the Agency that satisfies Sections 848.502 - 848.505 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, 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 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 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 two years; or
 - 2) other factors relative to operation of the site necessitate a later date for initiating removal of used and waste tires.

Section 848.507 Certification of Removal Completion

WITHIN 60 DAYS AFTER THE COMPLETION OF REMOVAL ACTIVITIES UNDER AN APPROVED tire removal AGREEMENT under this Subpart E, THE OWNER OR OPERATOR SHALL SUBMIT TO THE AGENCY A CERTIFICATION THAT THE SITE OR THE AFFECTED PORTION OF THE SITE subject to a tire removal agreement HAS BEEN CLEARED OF TIRES IN ACCORDANCE WITH THE APPROVED tire removal AGREEMENT. (Section 55.4 of the Act)

Section 848.508 Agency Approval

FOR A SITE AT WHICH THE OWNER OR OPERATOR IS PROPOSING TO PROCEED WITH REMOVAL under a tire removal agreement, rather than obtaining a permit under 35 Ill. Adm. Code: Subtitle G: Waste Disposal for the disposal of solid waste in a landfill, THE AGENCY SHALL APPROVE, MODIFY OR DISAPPROVE A PROPOSED AGREEMENT WITHIN 90 DAYS OF RECEIVING IT. IF THE AGENCY DOES NOT APPROVE THE AGREEMENT, THE AGENCY SHALL PROVIDE THE OWNER OR OPERATOR WITH A WRITTEN STATEMENT OF REASONS FOR THE REFUSAL, AND THE OWNER OR OPERATOR SHALL MODIFY THE AGREEMENT OR SUBMIT A NEW AGREEMENT FOR APPROVAL WITHIN 30 DAYS AFTER RECEIVING THE STATEMENT. THE AGENCY SHALL APPROVE OR MODIFY THE SECOND PROPOSED AGREEMENT WITHIN 60 DAYS. IF THE AGENCY MODIFIES THE SECOND PROPOSED AGREEMENT, THE AGREEMENT AS MODIFIED SHALL BECOME THE APPROVED AGREEMENT. (Section 55.4 of the Act)

Section 848.509 Board Review

MODIFICATION OF OR REFUSAL TO MODIFY A proposed tire removal AGREEMENT SUBMITTED BY AN OWNER OR OPERATOR PROPOSING TO PROCEED WITH REMOVAL under a tire removal agreement IS A PERMIT DENIAL FOR PURPOSES OF appeal pursuant to 35 Ill. Adm. Code 105. (Section 55.4 of the Act)

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 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.
- 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.

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(s) and operator(s).
 - 2) A description of the number and types of vehicles to be used.
 - 3) An agreement by the vehicle owner(s) and operator(s) that:
 - A) Tire loading, transportation and unloading will be conducted in compliance with all applicable state and federal laws and regulations.
 - B) 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.
 - C) 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(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 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. The Agency 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 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(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 this Part 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, except as provided in Section 848.603(i).
- 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) Registered tire transporter 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 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 _____, 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 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 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 initial cost estimate 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 IEPA. 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.

Section 4. Payment for Removal. The Trustee shall make payments from the Fund as the IEPA 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 IEPA from the Fund for removal expenditures in such amounts as the IEPA shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the IEPA specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund.

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. 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 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 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 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 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, 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 IEPA a statement confirming the value of the Trust. The evaluation day shall be each year on the _____ 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 IEPA 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 IEPA 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 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 IEPA 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 in this Agreement.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the 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 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, 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_____

Typed Name_____

Title_____

Seal

Director
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, 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 (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1001 et seq.) and 35 Ill. Adm. Code 848.413(e)."

This letter of credit is effective as of _____ and will expire on _____; but such expiration date 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 _____ in accordance with your instructions.

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_____

Section 848.Appendix A Financial Assurance Forms

ILLUSTRATION D Owner or Operator's Bond Without Surety

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

Section 848. Appendix A Financial Assurance Forms
ILLUSTRATION E Owner or Operator's Bond With Parent Surety

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

Section 848. Appendix A Financial Forms

ILLUSTRATION F Letter from Chief Financial Officer

LETTER FROM CHIEF FINANCIAL OFFICER

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

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 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 percent of firm's assets are located in the U.S.)
\$ _____

7. Is line 5 at least \$10 million? Yes No _____

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
