567—102.410(455D) Financial assurance requirements. Permitted waste tire processing sites and waste tire stockpile sites must obtain and submit a financial assurance instrument to the department in accordance with Iowa Code section 455D.11A and this rule.

102.410(1) *No permit without financial assurance.* The department shall not issue or renew a permit to an owner or operator of a waste tire processing or stockpile site until a financial assurance instrument(s) has been submitted to and approved by the department, as necessary.

102.410(2) *Financial assurance amounts required.*

a. Waste tire stockpile sites shall have financial assurance coverage equal to $2.50 per passenger tire equivalent collected and stockpiled.

b. Waste tire processing sites shall have financial assurance coverage equal to $2.50 per passenger tire equivalent stockpiled above the permitted three-day processing capacity, in accordance with 102.409(3) *"b."*

102.410(3) *Allowable financial assurance instruments.* The instruments used to demonstrate financial assurance must ensure that the funds necessary to properly dispose of any waste tires that may remain at a permitted waste tire stockpile or waste tire processing site due to the owner's or operator's failure to properly close the site within 30 days of permit termination, revocation, or expiration. The financial assurance instrument must be legally valid, binding, and enforceable under Iowa law and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Owners or operators must choose from options in 102.410(3)*"a"* through *"e,"* as provided for in Iowa Code section 455D.11A(3).

a. *Cash.* Cash payments shall be provided by a certified check, made payable to the Iowa Department of Natural Resources.

b. *Surety bond.* An owner or operator may demonstrate financial assurance for closure by obtaining a payment or performance surety bond, which conforms to the requirements of this paragraph. The surety bond agreement shall be on a form prescribed by the department and executed by a surety company authorized by the commissioner of insurance to do business in Iowa. The owner or operator shall provide the department with a statement from the surety with each permit renewal application, noting that the bond is paid and current for the period for which the applicant has applied for permit renewal. The executed surety bond provided to the department shall be an original, or copy thereof, that addresses the following:

(1) The penal sum of the bond must be in an amount at least equal to the amount specified in 102.410(2).

(2) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond and upon notice from the department pursuant to 102.410(8)*"e."*

(3) The owner or operator must also establish a standby trust fund. The standby trust fund must meet the requirements of 102.410(3)*"d."*

(4) Payments made under the terms of the letter of credit will be deposited by the issuing institution directly into the standby trust fund. Payments from the trust fund must be authorized by the trustee pursuant to 102.410(3)*"d"*(3).

c. *Letter of credit.* An owner or operator may demonstrate financial assurance for closure by obtaining an irrevocable standby letter of credit, which conforms to the requirements of this paragraph. The letter of credit agreement shall be on a form prescribed by the department, and the issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency. The owner or operator shall provide the department with a statement from the issuing institution with each permit renewal application, noting that the letter of credit is paid and current for the period for which the applicant has applied for permit renewal. The executed letter of credit provided to the department shall be an original, or copy thereof, that addresses the following:

(1) The letter of credit must be irrevocable and issued for a period of at least one year in an amount at least equal to the amount specified in 102.410(2).

(2) The provision of funds by the issuer of the letter of credit shall be considered an issuance of a loan to the owner or operator, and the terms of that loan shall be governed by the letter of credit or subsequent agreement between those parties.

(3) A letter from the owner or operator referring to the letter of credit by number, issuing institution, and date; providing the name and address of the facility; and providing the amount of funds assured must be included with the letter of credit submitted to the department.

(4) The owner or operator must also establish a standby trust fund. The standby trust fund must meet the requirements of 102.410(3)*"d."*

(5) Payments made under the terms of the letter of credit will be deposited by the issuing institution directly into the standby trust fund. Payments from the trust fund must be authorized by the trustee pursuant to 102.410(3)*"d"*(3).

d. Trust fund. An owner or operator may demonstrate financial assurance for closure by establishing a trust fund that conforms to the requirements of this paragraph. The trust fund agreement shall be on a form prescribed by the department, and the trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The executed trust fund provided to the department shall be an original, or copy thereof, that addresses the following:

(1) The trust fund shall be in an amount least equal to the amount specified in 102.410(2).

(2) The owner or operator shall provide the department with a statement from the trustee with each permit renewal application, documenting the current value of the trust fund complies with 102.410(2).

(3) The owner or operator, department, or other person authorized to conduct closure may request reimbursement from the trustee for these expenditures as they are incurred. Requests for reimbursement will be granted by the trustee only if sufficient funds are remaining in the trust fund to cover the remaining costs of proper site closure. The owner or operator, or other person authorized to conduct closure, must submit to the department documentation of the justification for reimbursement and verification that reimbursement has been received.

e. Corporate guarantee. An owner or operator that satisfies the requirements of this paragraph may demonstrate financial assurance for closure by obtaining a written guarantee.

(1) Affiliation. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator. A certified copy of the executed guarantee must be placed in the facility's operating record along with copies of the letter from the guarantor's chief financial officer and the independent certified public accountant's opinion(s). If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a substantial business relationship with the owner or operator, this letter must describe this substantial business relationship and the value received in consideration of the guarantee.

(2) Terms of the written guarantee. The guarantee must be effective and all required submissions made to the department prior to the initial receipt of waste tires or before the cancellation of an alternative financial assurance instrument, in the case of closure. The guarantee must provide that:

1. If the owner or operator fails to perform proper closure of a site covered by the guarantee, or fails to obtain alternative financial assurance within 90 days of notice of intent to cancel pursuant to 102.410(8), the guarantor will:

- Perform, or pay a third party to perform, proper closure as required (performance guarantee); or
- Establish a fully funded trust fund as specified in 102.410(3)*"d"* in the name of the owner or operator (payment guarantee);

2. The guarantee will remain in force for as long as the owner or operator must comply with the applicable financial assurance requirements of this rule unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the department pursuant to 102.410(8).

(3) The department may, based on a reasonable belief that the corporate guarantor may no longer assure the funds of the written guarantee, require at any time the corporate guarantor to provide reports of its financial condition. If a corporate guarantor can no longer assure the funds of the written guarantee, the

owner or operator must submit to the department proof of alternative financial assurance within 90-days of written notification by the department.

102.410(4) *Use of multiple financial assurance instruments.* An owner or operator may satisfy the requirements of 567—102.410(455D) by establishing more than one financial assurance instrument per site, except that instruments guaranteeing performance rather than payment may not be combined with other instruments. The instruments must be a combination of those instruments outlined in 102.410(3) and must provide financial assurance for an amount sufficient to satisfy the requirements of 102.410(2).

102.410(5) *Exemption.* The requirement for financial assurance shall not apply to waste tire stockpiling or processing sites operated by a city or county or operated in conjunction with a permitted sanitary landfill.

102.410(6) *Benefit of creditors; final judgment.* The financial assurance instrument shall not be assigned for the benefit of creditors with the exception of the state and shall not be used to pay any final judgment against a permit holder arising out of the ownership or operation of the site.

102.410(7) *Failure to undertake closure activities.* The department shall have full rights of access to all funds existing in a permitted facility's financial assurance instrument(s), at the sole discretion of the department, if the permit holder fails to undertake closure activities after being directed to do so by a final agency action of the department. These funds shall be used only for the purposes of funding closure activities at the site.

102.410(8) *Financial assurance cancellation and permit suspension.*

a. A financial assurance instrument may be terminated by the owner or operator only if the owner or operator substitutes alternative financial assurance prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this rule.

b. A financial assurance instrument shall be continuous in nature until canceled by the financial assurance provider, or until the department gives written notification to the owner or operator and the financial assurance provider, that the covered site has demonstrated compliance with the applicable closure requirements. The financial assurance provider shall give at least 90 days' notice in writing to the owner or operator and to the department in the event of any intent to cancel a financial assurance instrument, as evidenced by the return receipts.

c. Within 30 days of receipt of a written notice of cancellation of a financial assurance instrument, the owner or operator must provide the department with proof of alternative financial assurance or notice from the issuing institution of withdrawal of the cancellation. If a means of continued financial assurance is not provided within the 30-day time frame, the department shall suspend the permit.

d. The owner or operator shall perform proper closure within 30 days of the permit suspension, termination, revocation, or expiration. For the purpose of this subrule, proper closure means removal of all waste tires and related products from the site or facility through acceptable disposal or processing options.

e. If the owner or operator does not properly close the site within the 30-day period allowed, this shall constitute a failure to perform and the department shall file a claim with the financial assurance instrument provider to collect the amount of funds necessary to properly close the site prior to the expiration of the 90-day notice period.

f. Any financial assurance instrument provided to the department must remain in continuous effect until the department gives written notification to the owner, operator, and financial assurance provider that the covered site has been properly closed. An owner or operator who elects to terminate a permitted activity, whose renewal application has been denied, or whose permit has been suspended or revoked for cause must submit within 30 days of the termination of the permit a schedule for completing proper closure of the terminated activity. Closure completion cannot exceed 180 days from the date of termination of the permit.

g. The department may request payment from any financial assurance provider for the purpose of completing proper site closure when the owner or operator declares an economic inability to comply with this rule either by sending written notification to the department or through an action such as but not limited to filing for bankruptcy.

[**ARC 0483D**, IAB 8/19/26, effective 9/23/26]