

567—117.7(455B,455D) Financial assurance for waste tire sites. Permitted waste tire stockpile sites and waste tire processing facilities must obtain and submit a financial assurance instrument to this department for permitted waste tire storage, in accordance with these rules. The financial assurance instrument shall provide monetary funds to properly dispose of any waste tires that may remain at a waste tire site due to the owner's or operator's failure to properly close the site within 30 days of permit termination, revocation, or expiration. Waste tire storage and processing sites operated by state, county, or city agencies or operated in conjunction with a sanitary landfill shall not be required to obtain financial assurance instruments.

117.7(1) *No permit without financial assurance.* A permit shall not be issued to the owner and operator of a waste tire processing or storage site until a financial assurance instrument has been submitted to and approved by the department as necessary.

117.7(2) *Financial assurance amounts required.*

a. Waste tire stockpile sites shall have financial assurance coverage equal to 35 cents per waste tire collected and stored prior to July 1, 1998, and 85 cents per waste tire collected and stored on or after July 1, 1998.

b. If the owner or operator of a waste tire stockpile does not have adequate records to determine the time frame within which waste tire inventories were initially collected, then financial assurance amounts shall be determined by allocating the number of tires stored proportionally between the time period the facility has operated before and after July 1, 1998.

c. Waste tire processing sites shall have financial assurance coverage equal to 85 cents per waste tire stored above the permitted three-day processing capacity, in accordance with 117.6(3) "b."

117.7(3) *Acceptable financial assurance instruments.* Financial assurance may be provided by cash, surety bond, letter of credit, secured trust fund, or corporate guarantee, as follows:

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

b. A surety bond must be written by a company authorized by the commissioner of insurance to do business in the state, and the surety bond shall comply with the following:

(1) The bond shall be in a form approved by the commissioner of insurance and shall be payable to the department of natural resources.

(2) The bond must be continuous until canceled by the surety. Written notice of intent to cancel the bond must be provided to the owner and operator and to the department at least 90 days before the effective date of cancellation.

c. A secured trust fund shall name the department of natural resources as the entity authorized to draw funds from the trust, subject to proper notification to the trust officer of failure by the permittee to comply with proper removal and disposal of waste tires covered by the financial assurance provided by the trust.

d. The department may require, at the expense of the permittee, a financial audit of an individual or firm requesting the use of a letter of credit or corporate guarantee.

117.7(4) *Financial assurance cancellation and permit suspension.*

a. Within 30 days of receipt of a written notice of cancellation of financial assurance by the surety, the owner or operator must provide the department an alternative financial assurance instrument. If a means of continued financial assurance is not provided within that 30 days, the department shall suspend the permit.

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

c. If the owner or operator does not properly close the site within the 30-day period allowed, the department shall file a claim with the surety company, trust, or other financial assurance instrument provider to collect the amount of funds necessary to properly close the site.

d. Any financial assurance instrument provided to the department in compliance with this rule must be payable to the department and must remain in continuous effect until the director of the department gives written notification to the owner, operator, and surety provider that the covered site

has been properly closed. An owner or operator who elects to terminate a permitted activity, or 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 60 days from the date of termination of the permit.

e. The director may request payment from any surety to provide for the purpose of completing closure when one of the following circumstances exists:

(1) The owner or operator is more than 15 days late in providing a schedule for closure or for meeting any date in the schedule for closure.

(2) The owner or operator declares an economic inability to comply with this rule, either by sending written notification to the director or through an action such as, but not limited to, filing for bankruptcy.