



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL

OFFICE OF THE  
SECRETARY

89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

PHONE: (302) 739-9000  
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**Secretary's Order No.: 2015-WH-0014**

**RE: Approving Final Regulations to Amend 7 DE Admin. Code 1301:  
*Delaware Regulations Governing Solid Waste, to wit:  
Scrap Tire Facility Management Provisions***

**Date of Issuance: September 18, 2015**

**Effective Date of the Amendment: January 1, 2016**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 *Del.C.* §§6006, 6010, and 7 *Del.C.* §§6301 *et seq.*, and any other relevant authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory proceeding.

**Background, Procedural History and Findings of Fact**

This Order relates to proposed regulation Amendments to 7 DE Admin. Code 1301, *Delaware Regulations Governing Solid Waste* ("DRGSW"), to wit: *Scrap Tire Facility Management Provisions*. The Department's Division of Waste and Hazardous Substances, Solid and Hazardous Waste Management Section ("SHWMS"), has conducted this regulatory development process consistent with the requirements of 29 *Del.C.* Chapter 101, and has commenced said process with Start Action Notice 2011-13 dated September 28, 2011.

*Delaware's Good Nature depends on you!*

The Department published its initial proposed regulation Amendments in the January 1, 2015 *Delaware Register of Regulations*. The Department then held a public hearing on February 9, 2015. Consistent with 29 *Del.C.* §10118(a), the public hearing record remained open for public comment through February 24, 2015.

The purpose of this proposed regulatory promulgation is to adopt as final the aforementioned proposed Amendments to existing DRGSW to enable the Department to provide greater environmental protection and to reduce human health risks. Specifically, the proposed action will allow DNREC to have oversight on the management of scrap tires, including, but not limited to, the amount of tires allowed to be accumulated in one area, siting restrictions, and mosquito control.

The aforementioned proposed Amendments were presented and thoroughly vetted by the Department at the public hearing on February 9, 2015, at which time the SHWMS provided an exhaustive review of the proposed regulation amendments, addressing (1) the Department's reasoning for promulgation of these proposed Amendments; (2) the persons affected by these proposed Amendments; and (3) the particulars of the proposed Amendments, including a thorough discussion of all definitions and processes set forth therein. Members of the public attended the hearing on February 9, 2015, and comment was received by the Department with regard to this proposed regulatory promulgation. It should also be noted that all proper notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

Subsequent to the public hearing on February 9, 2015, and based on public comments received by the Department in this matter, the proposed regulatory Amendments were *revised* from the original Amendments initially published on January 1, 2015. These revisions to the original Amendments were done to clarify the application of the proposed rule to the affected regulated community, and to provide enhanced understanding of the regulation to the public. These revisions do not constitute a substantive change to the proposed regulatory language, and therefore no re-noticing of the *revised* proposed regulatory language by the Department is necessary in this matter.

It should also be noted that several months have passed since the hearing record closed with respect to public comment received in this matter. During the exhaustive review subsequently performed by the Department's Division of Waste and Hazardous Substances' Solid and Hazardous Waste Management Section, it was discovered that proper enforcement of these proposed regulations would necessitate additional staff. Thus, final promulgation of these regulations was temporarily delayed until such time as additional SHWMS staff was hired, to ensure that the Department had a proper mechanism in place for enforcement of these regulations to be possible.

The Department's presiding hearing officer, Lisa A. Vest, prepared a Hearing Officer's Report dated August 26, 2015 ("Report"). The Report documents the proper completion of the required regulatory amendment process, establishes the record, and recommends the adoption of the proposed *revised* regulatory Amendments as attached to the Report as Appendix "A".

## **Reasons and Conclusions**

Based on the record developed by the Department's experts and established by the Hearing Officer's Report, I find that the proposed *revised* regulatory Amendments to 7 DE Admin. Code 1301: *Delaware Regulations Governing Solid Waste*, to wit: *Scrap Tire Facility Management Provisions*, are well-supported. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that the proposed *revised* regulatory Amendments be promulgated as final.

I find that the Department's experts in the Division of Waste and Hazardous Substances, Solid and Hazardous Waste Management Section, fully developed the record to support adoption of these *revised* regulatory Amendments. The adoption of these *revised* regulatory Amendments will allow Delaware to (1) have oversight on the management of scrap tires, including, but not limited to, the power to limit the amount of tires allowed to be accumulated in one area; (2) provide environmental and human health protection via siting restrictions and mosquito control; and (3) provide a mechanism for enforcement when necessary.

In conclusion, the following reasons and conclusions are entered:

1. The Department has the statutory basis and legal authority to act with regard to the proposed amendments to 7 DE Admin. Code 1301, pursuant to 7 *Del. C.*, Chapters 60 and 63;
2. The Department has jurisdiction under its statutory authority, pursuant to 7 *Del.C.*, Chapter 60, to issue an Order adopting these proposed *revised* regulatory amendments as final;

3. The Department provided adequate public notice of the proposed regulatory amendments and all proceedings in a manner required by the law and regulations, provided the public with an adequate opportunity to comment on the proposed regulatory amendments, including at the time of the public hearing held on February 9, 2015, and held the record open through close of business on February 24, 2015, consistent with 29 *Del.C.* §10118(a), in order to consider public comment on these proposed regulatory amendments before making any final decision;

4. The Department's Hearing Officer's Report, including its established record and the recommended proposed *revised* regulatory Amendments as set forth in Appendix "A", are hereby adopted to provide additional reasons and findings for this Order;

5. Promulgation of the proposed *revised* regulatory amendments to 7 DE Admin. Code 1301: *Delaware Regulations Governing Solid Waste*, to wit: *Scrap Tire Facility Management Provisions*, will enable the Department's SHWMS to (1) have oversight on the management of scrap tires, including, but not limited to, the power to limit the amount of tires allowed to be accumulated in one area; (2) provide environmental and human health protection via siting restrictions and mosquito control; and (3) provide a mechanism for enforcement when necessary;

6. The Department has reviewed these proposed *revised* regulatory amendments in the light of the Regulatory Flexibility Act, consistent with 29 *Del.C.* Ch. 104, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally;

7. The Department's proposed regulatory amendments, as published in the January 1, 2015 *Delaware Register of Regulations*, and as revised and set forth in Appendix "A" hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they are approved as final regulatory amendments, which shall go into effect twenty days after their publication in the next available issue of the *Delaware Register of Regulations*; and

8. The Department shall submit this Order approving as final the proposed revised Amendments to 7 DE Admin. Code 1301: *Delaware Regulations Governing Solid Waste*, to wit: *Scrap Tire Facility Management Provisions*, to the *Delaware Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.



David S. Small  
Secretary

## MEMORANDUM

**TO:** The Honorable David S. Small  
Cabinet Secretary, Dept. of Natural Resources and Environmental Control

**FROM:** Lisa A. Vest   
Public Hearing Officer, Office of the Secretary  
Department of Natural Resources and Environmental Control

**RE:** **Proposed Regulation Amendments to 7 DE Admin. Code 1301:  
*Delaware Regulations Governing Solid Waste, to wit: Scrap Tire  
Facility Management Provisions***

**DATE:** August 26, 2015

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**I. Background:**

A public hearing was held on Monday, February 9, 2015, at 6:00 p.m. at the Department of Natural Resources and Environmental Control (“DNREC”, “Department”), 89 Kings Highway, Dover, Delaware to receive comment on proposed amendments (“Amendments”) to 7 DE Admin. Code 1301: *Delaware Regulations Governing Solid Waste* (hereinafter referred to as “DRGSW”), to wit: *Scrap Tire Facility Management Provisions*. To provide greater environmental protection and to reduce human health risks, the Department’s Division of Waste and Hazardous Substances, Solid and Hazardous Waste Management Section (“SHWMS”) is proposing to add scrap tire facility management provisions to existing DRGSW. Specifically, this proposed regulatory promulgation will enable the Department’s SHWMS to (1) have oversight on the management of scrap tires, including, but not limited to, the power to limit the amount of tires allowed to be accumulated in one area; (2) provide environmental and

human health protection via siting restrictions and mosquito control; and (3) provide a mechanism for enforcement when necessary.

The Department has the statutory basis and legal authority to act with regard to the proposed amendments to 7 DE Admin. Code 1301, pursuant to 7 *Del. C.*, Chapters 60 and 63. Members of the public attended said public hearing, and comment was received by the Department from the public regarding this proposed regulatory promulgation, which will be discussed in greater detail below. It should be noted that all notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

**II. SUMMARY OF THE PUBLIC HEARING RECORD:**

The public hearing record consists of the following documents: (1) a verbatim transcript; and (2) three documents introduced by responsible Department staff at the public hearing held on February 9, 2015, and marked by this Hearing Officer accordingly as Department Exhibits 1-3. The Department's person primarily responsible for the drafting and overall promulgation of these proposed Amendments, Bethany Fiske, developed the record with the relevant documents in the Department's files.

The purpose of this proposed regulatory promulgation is to adopt proposed Amendments to existing DRGSW to enable the Department to provide greater environmental protection and to reduce human health risks. Specifically, the proposed action will allow DNREC to have oversight on the management of scrap tires, including, but not limited to, the amount of tires allowed to be accumulated in one area, siting restrictions, and mosquito control.

The proposed Amendments were presented and thoroughly vetted by the Department at the public hearing on February 9, 2015. Through the utilization of a highly detailed Power Point presentation, Ms. Fiske provided an exhaustive review of the proposed regulation amendments, addressing (1) the Department's reasoning for promulgation of these proposed Amendments; (2) the persons affected by these proposed Amendments; and (3) the particulars of the proposed Amendments, including a thorough discussion of all definitions and processes set forth therein. As noted above, members of the public attended the February 9, 2015 hearing, and comment was received by the Department with regard to this proposed regulatory promulgation. Pursuant to Delaware law, the record remained open for fifteen (15) additional days subsequent to the date of the public hearing, for the purpose of receiving additional public comment. Again, all proper notification and noticing requirements concerning this proposed promulgation were met by the Department in this matter.

The hearing record formally closed with regard to public comment at close of business on Tuesday, February 24, 2015. At that time, the proposed Amendments were, once again, thoroughly reviewed by responsible Department staff, in light of the comment that had been received. As a result of that review, the SHWMS realized that, in the Department's effort to distinguish between legitimate and illegitimate reasons for having scrap tires on-site (i.e., the qualifying business language and the attempt to define the phrase, "primary purpose is not to accumulate scrap tires"), the proposed regulatory language contained in Section 13.1 inadvertently excluded a group of people who should not be excluded under this regulation. This group would be those businesses that have more than 1/3 of its tires on-site being scrap tires, yet still have a qualifying business and

a legitimate reason for doing so. For example, a business that sells new tires and takes customer's old tires as scrap tires for the purpose of recycling or disposal may have limited new tires in stock at the store, but have a relatively large number of scrap tires. In this scenario, the business' purpose is not to accumulate scrap tires – it is to sell new tires; however, the business may likely exceed the 1/3 limit as set forth in the proposed regulations, which, as previously written, is evidence that the purpose of the business *is* to accumulate scrap tires. Therefore, under this scenario, the business would not meet the definition of a qualifying business, and thus would not be allowed to have any scrap tires on-site, which was not the intent of the proposed regulation.

For the reasons set forth above, the Department has now *revised* the proposed regulatory language as initially offered in Section 13.1 by removing the restricting language described above. This revision does not constitute a substantive change to the proposed regulatory language, as the change is being made by the Department (1) to clarify the application of the proposed rule to the affected regulated community; and (2) to provide enhanced understanding of the regulation to the public. Thus, no re-noticing of the *revised* proposed regulatory language by the Department is necessary in this matter.

It should also be noted that several months have passed since the hearing record closed with respect to public comment received in this matter. During the exhaustive review subsequently performed by the Department's Division of Waste and Hazardous Substances' Solid and Hazardous Waste Management Section, it was discovered that proper enforcement of these proposed regulations would necessitate additional staff. Thus, final promulgation of these regulations was temporarily delayed until such time as

additional SHWMS staff was hired, to ensure that the Department had a proper mechanism in place for enforcement of these regulations to be possible.

**III. RECOMMENDED FINDINGS AND CONCLUSIONS:**

Based on the record developed, I find and conclude that the Department has provided appropriate reasoning regarding the need for the *revised* proposed 7 DE Admin. Code 1301: *Delaware Regulations Governing Solid Waste*, to wit: *Scrap Tire Facility Management Provisions*, as noted above. Accordingly, I recommend promulgation of these *revised* proposed regulatory amendments in the customary manner provided by law.

Further, I recommend the Secretary adopt the following findings and conclusions:

1. The Department has the statutory basis and legal authority to act with regard to the proposed *revised* amendments to 7 DE Admin. Code 1301, pursuant to 7 *Del. C.*, Chapters 60 and 63;

2. The Department has jurisdiction under its statutory authority, pursuant to 7 *Del.C.*, Chapter 60, to issue an Order adopting these proposed *revised* regulatory amendments as final;

3. The Department provided adequate public notice of the proposed regulatory amendments and all proceedings in a manner required by the law and regulations, provided the public with an adequate opportunity to comment on the proposed regulatory amendments, including at the time of the public hearing held on February 9, 2015, and held the record open through close of business on February 24, 2015, consistent with 29 *Del.C.* §10118(a), in order to consider public comment on these proposed regulatory amendments before making any final decision;

4. Promulgation of the proposed *revised* regulatory amendments to 7 DE Admin. Code 1301: *Delaware Regulations Governing Solid Waste*, to wit: *Scrap Tire Facility Management Provisions*, will enable the Department's SHWMS to (1) have oversight on the management of scrap tires, including, but not limited to, the power to limit the amount of tires allowed to be accumulated in one area; (2) provide environmental and human health protection via siting restrictions and mosquito control; and (3) provide a mechanism for enforcement when necessary;

5. The Department has reviewed these proposed *revised* regulatory amendments in the light of the Regulatory Flexibility Act, consistent with 29 *Del.C.* Ch. 104, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally;

6. The Department's proposed regulatory amendments, as published in the January 1, 2015 *Delaware Register of Regulations*, and as *revised* and set forth in Appendix "A" hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they should be approved as final regulatory amendments, which shall go into effect twenty days after their publication in the next available issue of the *Delaware Register of Regulations*; and

7. The Department shall submit the proposed *revised* regulatory amendments as final regulatory amendments to 7 DE Admin. Code 1301: *Delaware Regulations Governing Solid Waste*, to wit: *Scrap Tire Facility Management Provisions*, to the *Delaware Register of Regulations* for publication in its next available issue, and provide

such other notice as the law and regulation require and the Department determines is appropriate.



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LISA A. VEST  
Public Hearing Officer

\\hear\SCRAP Tire Regs.2015

Attachments/Appendix:  
Appendix A: Proposed *Revised* Reg. Amendments



**APPENDIX "A"**



**Amendments to  
Delaware's *Regulations Governing Solid Waste***

**2015 Proposed Amendment  
For Publication in the State Register  
Start Action Notice # 2011-13**

Delaware Department of Natural Resources and Environmental Control  
Division of Waste and Hazardous Substance  
Solid and Hazardous Waste Management Section  
89 Kings Highway  
Dover, DE 19901  
Phone: 302-739-9403  
Contact: Bethany Fiske

ID #	Description	Page
1	Scrap tire facility provisions	2

Proposed Amendments to  
Delaware's *Regulations Governing Solid Waste*  
(DRGSW)

NOTE: For the purposes of this amendment package only those sections of the solid waste regulations shown herein are affected. The remaining sections of the DRGSW are not affected and are unchanged. Proposed additions are indicated with underlines, and deletions are indicated with ~~strikethroughs~~.

**AMENDMENTS:**  
Scrap Tire Facility provisions

To provide greater environmental protection and to reduce human health risks, the Solid and Hazardous Waste Management Section (SHWMS) proposes to add scrap tire facility management provisions to DRGSW.

2.0 Scope and Applicability

...

2.2. Applicability

2.2.1. These regulations apply to any person using land or allowing the use of land for the purposes of storage, collection, processing, transfer, or disposal of solid waste; and to any person transporting solid waste in or through the State of Delaware. The following shall be subject to the provisions of these regulations:

- 2.2.1.1. Sanitary landfills
- 2.2.1.2. Industrial landfills
- 2.2.1.3. Resource recovery facilities
- 2.2.1.4. Transfer stations
- 2.2.1.5. Special wastes handling
- 2.2.1.6. Transportation of solid waste
- 2.2.1.7. Storage of solid waste
- 2.2.1.8. Scrap tire facilities

...

3.0 Definitions

**“Enclosed by a building”** means a permanent fixed structure surrounded on all sides by four solid walls, a structurally sound roof, and an impermeable floor, with no permanent openings.

**“Passenger Tire Equivalent”** means a conversion measurement using the assumption that one passenger car tire is equal to 25 pounds. A tire weighing more than 25 pounds shall be evaluated by dividing its total weight by 25 pounds to equal the number of PTEs.

**“Prudent or practical”** means:

- a) Tread depth shall not be less than 2/32 of an inch deep;
- b) Free from chunking, bumps, knots, or bulges evidencing cord, ply, or tread separation from the casing or other adjacent materials; and
- c) Tire cords or belting materials shall not be exposed, either to the naked eye or when cuts or abrasions on the tire are probed.

**“Refuse”** means any putrescible or nonputrescible solid waste, except human excreta, but including garbage, rubbish, ashes, street cleanings, dead animals, scrap tire(s), offal and solid agricultural, commercial, industrial, hazardous and institutional wastes, and construction wastes.

**“Scrap tire”** means:

- a) a tire that is no longer prudent or practical for vehicular use; or
- b) a tire that has not been used on a vehicle for more than 6 months after the last date it was used on a vehicle; or
- c) a tire that is six years or older from the date of manufacture;

“Scrap tire facility” means an accumulation of 100 or more scrap tires wherein each scrap tire weighs 25 pounds or less; or 100 or more scrap passenger tire equivalents; or any combination thereof that, upon conversion, results in 100 or more passenger tire equivalents, in the same general vicinity that is not enclosed by a building, including, but not limited to, open fields, woodlots, pavement, dumpsters or rolloffs, trailers, and fenced areas. For scrap tires weighing more than 200 pounds each, the first 10 scrap tires are exempt from the accumulation amount.

“Setback” means the area between the actual disposal area and the property line which can be used for construction of environmental control systems such as runoff diversion ditches, monitoring wells, or scales; for scrap tire facilities, “setback” means the minimum amount of distance required between the most outer edge of the scrap tire facility and another object, including, but not limited to, a property line, public roads, wells, etc.

“Tire” means a covering fitted around the rim of a vehicular wheel to absorb shocks, usually of reinforced rubber or a rubberized compound, and pressurized with air or by a pneumatic inner tube, including, but not limited to, car tires, truck tires, and off-the-road tires, and any substantial portion of such covering.

...

#### 4.0 Permit Requirements And Administrative Procedures

##### 4.1. General Provisions

##### 4.1.1. Permit required

4.1.1.1. No person shall engage in the construction, operation, material alteration, or closure of a solid waste facility, unless exempted from these regulations under Section 2.3, without first having obtained a permit from the Department.

4.1.1.2. No person that is subject to the requirements of Section 7.2 ~~or 7.3~~ of these regulations shall transport solid waste in or through the State of Delaware without first having obtained an appropriate solid waste transporter's permit from the Department.

~~4.1.1.3. — Permittees shall abide by the conditions of their permit issued by the Department.~~

4.1.1.3. No person that is subject to the requirements of Section 13 of these regulations shall construct or operate a scrap tire facility without first having obtained a permit from the Department.

4.1.1.4. Permittees shall abide by the conditions of their permit issued by the Department.

...

##### 4.1.5 Duration of permit

A permit will be issued for a specific duration which will be determined by the Department.

4.1.5.1 Solid waste facility operating permits (landfills, resource recovery facilities, transfer stations, incinerators, scrap tire facilities) shall not be issued for periods greater than 10 years.

...

4.1.11.2.4.1. Trust Fund

...

Condition 5: Pay-in periods and amounts for all solid waste facilities shall be in accordance with those specified in 40 CFR Part 258.74, subsections (a)(2),(a)(3), (a)(4) and (a)(6) or otherwise acceptable to the Department. Amounts for scrap tire facilities shall be in accordance with those specified in Section 13 of these regulations.

...

4.1.11.2.4.6. Corporate Financial Test and Guarantee

...

Condition 10: In the event that the CFO does not use financial test figures directly ~~form~~ from the annual statements provided to the Securities and Exchange Commission, then a special report from an independent accountant shall be required. In the report, the Certified Public Accountant must confirm that the data used in the CFO letter was appropriately derived from the audited, year-end financial statements.

...

4.8. Application Procedures For Scrap Tire Facilities

The application procedures shall be in accordance with those specified in Section 13.0

APPENDIX A to Section 4.1.11 (Relating to Financial Assurance)

TRUST AGREEMENT

...

Section 2. Identification of Facilities and Cost Estimates. This agreement pertains to the [insert type of operation] and cost estimates identified on attached Schedule A [on Schedule A, for each facility list the permit number, ~~EPA-Identification Number~~, name, address, and the current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.

...

Section 10. Valuation and Adjustment. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Department's Solid & Hazardous Waste Management ~~Branch~~ Section a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Department shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matter disclosed in the statement.

...

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 Department's Solid & Hazardous Waste Management ~~Branch~~ Section, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts 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 Department to the Trustee shall be in writing, signed by the Secretary or the manager of the Department's Solid & Hazardous Waste Management ~~Branch~~ Section, 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 the Department 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 Department, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the Department's Solid & Hazardous Waste Management ~~Branch~~ Section by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

....

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, if applicable, and attested as of the date first above written.

...

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; and, if applicable, that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

...

APPENDIX B to Section 4.1.11 (Relating to Financial Assurance)

PERFORMANCE BOND

...

Whereas said Principal is required, under the State Statute, to have a [insert "permit in order to own or operate each solid waste management facility identified above" or "Beneficial Use Determination, "~~Recycling Approval~~, hereinafter called BUD in order to own or operate each recycling facility identified above"], and

...

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

...

APPENDIX C to Section 4.1.11 (Relating to Financial Assurance)

...

BENEFICIARY: The Secretary of the Department of Natural Resources and Environmental Control, State of Delaware, 89 Kings Highway, Dover DE 19901 (All correspondence regarding this letter of credit must be submitted through the Department's Solid & Hazardous Waste Management ~~Branch~~ Section for administration).

...

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of one year on [date] and on each successive expiration date, unless at least 120 days before the current expiration date, we notify (1)you, (2) the Solid & Hazardous Waste Management ~~Branch~~ Section, and (3) [owner's or operator's name] by nationally recognized overnight courier service or upon receipt if delivered personally, 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 or until the letter of credit has expired, whichever is later.

...

APPENDIX E to Section 4.1.11 (Relating to Financial Assurance)

LOCAL GOVERNMENT GUARANTEE FOR CLOSURE

...

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the Guarantor fails to meet the financial test criteria, Guarantor shall send within 90 days, by certified mail, notice to the Secretary of DNREC (Secretary), to the DNREC Solid and Hazardous Waste Management ~~Branch~~ Section that he intends to provide alternate financial assurance as specified in the DRGSW, in the name of [owner or operator]. Within 120 days after the end of such fiscal year, the Guarantor shall establish such financial assurance unless [owner or operator] has done so.

...

7. The Guarantor agrees to notify the Secretary of the DNREC Solid and Hazardous Waste Management ~~Branch~~ Section of voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming Guarantor as debtor, within 10 days after commencement of the proceeding.

8. Guarantor agrees that if Guarantor no longer meets the financial test criteria or is otherwise disallowed by DNREC from providing this Guarantee, Guarantor, within 30 days after being notified by the Secretary of the DNREC Solid and Hazardous Waste Management ~~Branch~~ Section of a determination that Guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a Guarantor of closure, he shall establish alternate financial assurance as specified in the DRGSW, as applicable, in the name of [owner or operator] unless [owner or operator] has done so.

...

11. Guarantor may send notice of intent to terminate this Guarantee, by certified mail to the Secretary of DNREC, the Solid & Hazardous Waste Management ~~Branch~~ Section, and to Principal Debtor, provided that this Guarantee shall not terminate unless and until Principal Debtor obtains, and the DNREC approves in its sole discretion, alternate closure financial assurance coverage complying with the DRGSW.

12. Guarantor expressly waives notice of acceptance of this guarantee by the Solid and Hazardous Waste Management ~~Branch~~ Section or by [owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit(s) or modifications of other applicable law.

...

APPENDIX F to Section 4.1.11 (Relating to Financial Assurance)  
CORPORATE GUARANTEE FOR CLOSURE

...

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the Guarantor fails to meet the financial test criteria, Guarantor shall send within 90 days, by certified mail, notice to the Secretary of DNREC (Secretary), to the DNREC Solid and Hazardous Waste Management ~~Branch~~ Section that he intends to provide alternate financial assurance as specified in the DRGSW, in the name of [owner or operator]. Within 120 days after the end of such fiscal year, the Guarantor shall establish such financial assurance unless [owner or operator] has done so.

...

7. The Guarantor agrees to notify the Secretary of the DNREC Solid and Hazardous Waste Management ~~Branch~~ Section of voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming Guarantor as debtor, within 10 days after commencement of the proceeding.

8. Guarantor agrees that if Guarantor no longer meets the financial test criteria or is otherwise disallowed by DNREC from providing this Guarantee, Guarantor, within 30 days after being notified by the Secretary of the DNREC Solid and Hazardous Waste Management ~~Branch~~ Section of a determination that Guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a Guarantor of closure, he shall establish alternate financial assurance as specified in the DRGSW, as applicable, in the name of [owner or operator] unless [owner or operator] has done so.

...

11. Guarantor may send notice of intent to terminate this Guarantee, by certified mail to the Secretary of DNREC, the Solid & Hazardous Waste Management ~~Branch~~ Section, and to Principal Debtor, provided that this Guarantee shall not terminate unless and until Principal Debtor obtains, and the DNREC approves in its sole discretion, alternate closure financial assurance coverage complying with the DRGSW.

12. Guarantor expressly waives notice of acceptance of this guarantee by the Solid and Hazardous Waste Management ~~Branch~~ Section or by [owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit(s) or modifications of other applicable law.

...

APPENDIX G to Section 4.1.11 (Relating to Financial Assurance)  
STANDBY TRUST AGREEMENT

...

Section 2. Identification of Facilities and Cost Estimates. This agreement pertains to the [insert type of operation] and cost estimates identified on attached Schedule A [on Schedule A, for each facility list the permit number ~~EPA-Identification Number~~, name, address, and the current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement].

...

Section 10. Valuation and Adjustment. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Department's Solid & Hazardous Waste Management ~~Branch~~ Section a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Department shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matter disclosed in the statement.

...

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 Department's Solid & Hazardous Waste Management ~~Branch~~ Section, and the present Trustee by certified mail 10

days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts 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 Department to the Trustee shall be in writing, signed by the Secretary or the manager of the Department's Solid & Hazardous Waste Management Branch Section, 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 the Department 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 Department, except as provided for herein.

...

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, if applicable, and attested as of the date first above written.

...

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; and, if applicable, that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

...

### **13.0 Scrap Tire Facilities**

#### **13.1 Scope and Applicability**

This section applies to new and existing areas established for scrap tires that are associated with a qualifying business. A qualifying business is a business that generates and accumulates scrap tires but whose primary purpose is not to accumulate scrap tires ~~[(defined as no more than 1/3 of all tires on-site meeting the definition of scrap tire)]~~. Examples of qualifying businesses may include, but is not limited to: tire retreading businesses; automobile graveyards or junkyards; local and state governmental agencies and/or facilities such as county maintenance, police, and fire; military institutions and/or facilities; farmers; and other automotive businesses. This section does not apply to owner/operators who have a current and valid resource recovery facility permit (or other approval issued pursuant to these regulations) that addresses scrap tire management. This section also does not apply to persons who are registered with, and actively participating in, the Scrap Tire Management Program, administered by the Department. All transporters of solid waste must comply with any applicable

provisions in Section 7.0. All scrap tire facilities whose primary purpose is to accumulate scrap tires ~~[(defined as more than 1/3 of all tires on-site meeting the definition of a scrap tire)]~~ must comply with all applicable provisions in Section 10.0.

13.2 Scrap Tire Facility Categories

All scrap tire facilities must either fall into one of two groups, as defined below. A property may have only one scrap tire facility. All other scrap tires facilities are prohibited.

13.2.1 Group 1: total volume for scrap tires will be no greater than 450.5 square feet by 10 feet high, with the height being measured from the lowest point on the lowest tire and the square footage measured using the furthest tires.

13.2.2 Group 2: total volume for scrap tires will be no greater than 901 square feet by 10 feet high, with the height being measured from the lowest point on the lowest tire and the square footage measured using the furthest tires.

13.3 Implementation date

13.3.1 Each scrap tire facility in existence prior to the effective date of these regulations must apply for a permit issued by the Department pursuant to these regulations no later than 90 days for Group 1 and 180 days for Group 2 and comply with these regulations.

13.3.2 ~~Each scrap tire facility created after the effective date of these regulations must apply for a permit issued by the Department pursuant to these regulations no later than 45 days for Group 1 and 90 days for Group 2 and comply with these regulations.~~ [Each scrap tire facility created after the effective date of these regulations must comply with subsection 4.1.1.3 of these regulations.]

13.4 Permit Application Requirements

Owners/operators shall submit to the Department a “Scrap Tire Facility Permit Form” and the following documentation:

13.4.1 Description

A description of the proposed scrap tire facility, including volume of proposed or existing tires, whichever is larger, and the type of qualifying business at which the scrap tire facility will occur.

13.4.2 Facility Diagram

An accurate facility diagram of the proposed scrap tire facility showing all siting requirements of Subsection 13.5 and any other features connected to the construction and operation of the scrap tire facility.

13.4.3 GIS Image

A current GIS image of the property where the scrap tire facility is/will be located and the surrounding properties. On the image, delineate the property boundary and the scrap tire facility location. In addition, label the nature of the surrounding properties (e.g. business with type of business specified, residence, etc.).

13.4.4 Floodplain Map

The most recent Federal Emergency Management Agency’s 100-year flood data of the area to demonstrate that the proposed facility will not be

located in the 100-year floodplain, restrict the flow of a 100-year flood, or reduce the storage capacity of a floodplain.

13.4.5 Operations Manual

An Operations Manual prepared in accordance with Subsection 13.7.1.

13.4.6 Proof that all applicable zoning approvals and all appropriate federal, state, and local environmental permits have been obtained.

13.4.7 Title, Right, or Interest

Evidence of an applicant's title, right, or interest in the property for the proposed facility location.

13.4.8 Certification

A statement signed by the applicant that all siting and design standards and operational requirements of this subsection will be met before commencement of any construction or operation of a scrap tire facility or prior to expiration of the transition provisions of Subsection 13.3.

13.4.9 Financial Assurance (Required only for Group 2)

Evidence of financial assurance in accordance with Subsection 13.8.

13.5 Siting and Design Standards

To qualify for a permit, the siting and design standards of this subsection must be met, with distances being measured using the closest tire to the setback object. In the instance where applicable zoning requirements are more stringent than the requirements in these regulations, then the more stringent requirements must be met.

13.5.1 Setbacks

13.5.1.1 The following setbacks must be maintained for Group 1:

13.5.1.1.1 A minimum 20 foot setback between the scrap tire facility and all public roads and property boundaries.

13.5.1.1.2 A minimum 50 foot setback between the scrap tire facility and residences in existence at the time the application is filed.

13.5.1.1.3 A minimum 100 foot setback between the scrap tire facility and off-site drinking water supply wells and water supply springs in existence at the time the application is filed.

13.5.1.2 The following setbacks must be maintained for Group 2:

13.5.1.2.1 A minimum 100 foot setback between the scrap tire facility and all public roads and property boundaries.

13.5.1.2.2 A minimum 300 foot setback between the scrap tire facility and residences in existence at the time the application is filed.

13.5.1.2.3 A minimum 300 foot setback between the scrap tire facility and off-site drinking water supply wells and water supply springs in existence at the time the application is filed.

13.5.2 Floodplain

A new or existing scrap tire facility shall not be located within the 100-year floodplain, based on flood data generated by the Federal Emergency Management Agency.

13.5.3 Natural Resources

A scrap tire facility shall not be located:

13.5.3.1 Within or around, at the Department's discretion and determination, important and/or sensitive habitat or habitats that support rare, threatened, or endangered species; or

13.5.3.2 At a minimum, within 50 feet of:

13.5.3.2.1 A state or federally regulated wetland, or

13.5.3.2.2 A pond, river, or stream, except for artificial ponds or impoundments.

13.5.4 Fire Prevention Measures

13.5.4.1 All grasses, weeds, brush, debris, and other combustible material must not be present in or on the scrap tire facility.

13.5.4.2 For Group 1, a 20 foot mineral strip fire break must be constructed around the ground surface perimeter of the scrap tire facility. All grasses, weeds, brush, debris, and other combustible material must not be present on the fire break, with the exception of well-maintained and regularly mowed grass.

13.5.4.3 For Group 2, a 50 foot mineral strip fire break must be constructed around the ground surface perimeter of the scrap tire facility. All grasses, weeds, brush, debris, and other combustible material must not be present on the fire break, with the exception of well-maintained and regularly mowed grass.

13.5.5 Stabilization

The area under the scrap tire facility must be adequately stabilized to prevent any scrap tires from sinking below ground level and to prevent any significant unintended movement of the tires on the scrap tire facility.

13.5.6 Department Discretion

The Department has the discretion to modify the Siting and Design Standards for a specific scrap tire facility upon request from an owner/operator.

13.6 Mosquito Control

13.6.1 The owner/operator of a scrap tire facility must implement and maintain mosquito control by either:

13.6.1.1 Removing any water held in scrap tires immediately upon receipt at the facility via hole punching throughout tires or other sufficient means, and storing scrap tires in such a way that water does not accumulate in the scrap tires or containers where scrap tires are held; or

13.6.1.2 If any scrap tires hold water that is not removed within 24 hours of receipt, a larvicide that is registered for use for mosquito control by the U.S. Environmental Protection Agency must be effectively applied to the water-holding tires within 48 hours of receipt. The owner/operator or a private contractual professional pesticide

applicator, at the owner/operator's expense, can perform the initial and/or follow-up larvicide applications, provided that the applications are safely done in accordance with all product label instructions and federal or state regulations. If a Restricted Use pesticide is utilized, it must be purchased and applied by a Delaware Certified Pesticide Applicator (who could be the owner/operator if appropriately certified) in accordance with Delaware Department of Agriculture regulations. The Department's Mosquito Control Section, if requested by the owner/operator, can also perform the larvicide applications at the Section's discretion. The owner/operator shall then reimburse the Mosquito Control Section for all costs of any such treatments as determined or assessed by the Department.

13.6.1.2.1 A larvicide must be reapplied as needed to maintain good larval control in accordance with the methods described in Subsection 13.6.1.2.

13.6.1.2.2 Mosquito control records involving larvicide applications must be maintained on the premises for a period of three years and be available to Department personnel upon request. The records, at a minimum, must include name, type, and amount of larvicide applied per tire, the EPA registration number of the larvicide product lot used, the date and time of application, and the name of the person who applied the larvicide along with their Delaware Certified Pesticide Applicator Number, if a Restricted Use pesticide was applied.

13.6.2 If the Department finds the existence of excessive numbers of adult mosquitos or mosquito larvae on the premises, as determined at the sole discretion of the Department, the owner/operator must apply, within 24 hours of notice from the Department, an adulticide or larvicide that is registered for use for mosquito control by the U.S. Environmental Protection Agency, with applications done in accordance with all Delaware Department of Agriculture regulations, using the methods described in Subsection 13.6.1.2.

### 13.7 Operational Requirements

13.7.1 The owner/operator must develop and implement an operations manual for the scrap tire facility prepared in accordance with the requirements of Subsection 13.7. A paper copy of the Operations Manual must be readily available on-site. In addition to Subsection 13.7 requirements, this manual must include:

13.7.1.1 Procedures for clean-up and maintenance of the facility;

13.7.1.2 Information that would enable supervisory, operating personnel, and persons evaluating the operation of the scrap tire facility to determine what requirements must be followed for a safe, orderly,

- and environmentally sound operation on a daily and yearly basis;  
and
- 13.7.1.3 Emergency procedures and emergency contacts, including, but not limited to, the Department's emergency number (1-800-662-8802) and 9-1-1.
- 13.7.2 The owner/operator shall take whatever measures are necessary to familiarize all personnel responsible for operation of the scrap tire facility with relevant sections of the operations manual, including training on the procedures to be followed in case of an emergency, including, but not limited to, fires. Documentation of personnel training must be maintained on-site for three years.
- 13.7.3 The siting and design standards as required by Subsection 13.5 must be met and maintained.
- 13.7.4 Only scrap tires may be stored in the designated scrap tire facility.
- 13.7.5 Only scrap tires generated by or from the qualifying business may be present on the scrap tire facility of said qualifying business.
- 13.7.6 The scrap tire facility is required to be secured at all times except when adding or removing tires. For completely enclosed containers, such as trailers, security can be achieved by locking the trailer. For all other situations, the facility must be enclosed by a locked security fence.
- 13.7.7 Scrap tires cannot stay on-site indefinitely: each calendar year, the amount of scrap tires removed from the facility must equal at least 75% (by weight, volume, or number) of the amount of scrap tires accumulated on-site on January 1<sup>st</sup> of that calendar year. Documentation demonstrating the percentage of turnover must be kept for a period of at least three years and all documentation must be available for inspection by the Department upon request.
- 13.7.8 The owner/operator shall keep copies of all documentation demonstrating lawful management of all scrap tires added to the facility for a period of at least three years and all documentation must be available for inspection by the Department upon request.
- 13.7.9 Any scrap tire(s) removed from the facility must be properly transported to an authorized treatment, storage, disposal, or recycling facility (TSDRF). Documentation demonstrating delivery (e.g., tolling agreement, letter of acceptance, manifest or other documentation deemed acceptable by the Department) to the TSDRF must be kept for a period of at least three years and all documentation must be available for inspection by the Department upon request.
- 13.8 Financial Assurance (Required only for Group 2)  
The owner/operator must obtain and retain a minimum of \$10,000 financial assurance. Financial assurance is not required if the owner/operator can demonstrate a current, valid contract or other legal documentation with an approved TSDRF that requires the owner/operator to pay the cost of removing the scrap tires prior to delivery of a trailer where the scrap tires will be accumulated. Failure to obtain financial assurance will result in denial of issuance of a permit, which will cause the owner/operator to be in violation of these regulations.

- Failure to maintain financial assurance will result in revocation of the permit, which will cause the owner/operator to be violation of these regulations.
- 13.9 Right of Entry and Access  
The Department retains the right of entry and access upon any private or public property during normal business hours and upon presentation of official identification for any purpose relating to the scrap tire regulations.
- 13.10 Notification of Closure/Closure  
When a scrap tire facility ceases accepting and/or generating scrap tires or ceases meeting the requirements of these regulations, all scrap tires must be removed and the facility shall be closed in a manner that will eliminate the need for further maintenance of the facility. The following conditions apply:
- 13.10.1 The Department shall be notified in writing a minimum of 90 days prior to the proposed date of cessation of use of a facility.
- 13.10.2 The notification of closure must include:
- 13.10.2.1 A description of methods, procedures, and processes that will be used to close the facility, including provisions that will be made for the proper removal of all scrap tires on the facility when operation ceases;
- 13.10.2.2 A description of restrictions that will be put in place to preclude delivery of additional scrap tires;
- 13.10.2.3 An estimate of the cost of closing the facility; and
- 13.10.2.4 A schedule for implementation of closure procedures.
- 13.10.3 A scrap tire facility must be closed in a manner that minimizes the need for further maintenance, and so that it will not pollute any waters, contaminate the ambient air, constitute a hazard to health or welfare, or create a nuisance.
- 13.10.4 The owner/operator must remove all scrap tires from the facility. All scrap tires must be properly transported to an authorized TSDRF. Documentation demonstrating delivery (e.g., tolling agreement, letter of acceptance, manifest or other documentation deemed acceptable by the Department) to the TSDRF must be kept for a period of at least three years and all documentation must be available for inspection by the Department upon request.
- 13.10.5 The owner/operator shall begin implementation of the closure within 30 days following written Department approval, with full closure being achieved within 90 days, unless otherwise approved in writing by the Department.
- 13.10.6 The owner/operator must notify the Department within 10 days after closure activities are complete.
- 13.11 All other scrap tire facilities
- 13.11.1 All other scrap tire facilities not complying with the requirements of Group 1 or Group 2 or owner/operators who do not have a current and valid resource recovery facility permit (or other approval issued pursuant to these regulations) that addresses scrap tire management; or persons who are not registered with, and actively participating in, the Scrap Tire Management Program are prohibited. All scrap tires must be removed in

accordance with this subsection and the facility shall be closed in a manner that will eliminate the need for further maintenance of the facility. The following conditions apply:

- 13.11.1.1 The owner/operator must submit to the Department within 30 days of non-compliance with these regulations:
  - 13.11.1.1.1 A description of methods, procedures, and processes that will be used to close the facility, including provisions that will be made for the proper removal of all scrap tires on the facility when operation ceases;
  - 13.11.1.1.2 A sediment and stormwater management plan if required under, and in accordance to, the Sediment and Stormwater regulations in Title 7, Chapter 40 of the Delaware Code.
  - 13.11.1.1.3 A description of restrictions that will be put in place to preclude delivery of additional scrap tires;
  - 13.11.1.1.4 An estimate of the cost of closing the facility; and
  - 13.11.1.1.5 A schedule for implementation of closure procedures.
- 13.11.1.2 A scrap tire facility must be closed in a manner that minimizes the need for further maintenance, and so that it will not pollute any waters, contaminate the ambient air, constitute a hazard to health or welfare, or create a nuisance.
- 13.11.1.3 The owner/operator must remove all scrap tires from the facility. All scrap tires must be properly transported to an authorized treatment, storage, disposal, or recycling facility (TSDRF). Documentation demonstrating delivery (e.g., tolling agreement, letter of acceptance, manifest or other documentation deemed acceptable by the Department) to the TSDRF must be kept for a period of at least three years and all documentation must be available for inspection by the Department upon request.
- 13.11.1.4 The owner/operator shall begin implementation of the closure within 30 days following written Department approval, with full closure being achieved within 90 days, unless otherwise approved in writing by the Department.
- 13.11.1.5 The owner/operator must notify the Department within 10 days after closure activities are complete.
- 13.11.2 Failure to promptly and properly close the scrap tire facility may result in an enforcement action.

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