

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

**2015 Proposed Amendment
For Publication in the State Register
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Division of Waste and Hazardous Substance
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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.

Background:

Delaware is proposing to add Section 13 to DRGSW to address scrap tire facility management. This will enable the SHWMS to have oversight on the management of scrap tires, including limiting the amount of tires allowed to be accumulated in one area, providing environmental and human health protection via siting restrictions and mosquito control, and providing a mechanism for enforcement if the need arises. Other provision of DRGSW will be modified to compliment the addition of Section 13.

2.0 Scope and Applicability

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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

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3.0 Definitions

“Building” means a permanent fixed structure with four solid walls, a structurally sound roof, and an impermeable floor.

“Enclosed” means surrounded on all sides by walls, a roof, and a floor, with no significant 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 tires, 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 rollovers, 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 scrap tire facility and another object such as 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.

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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.

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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, and scrap tire facilities) shall not be issued for periods greater than 10 years.

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4.1.11.2.4.1. Trust Fund

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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.

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4.1.11.2.4.6. Corporate Financial Test and Guarantee

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Condition 10: In the event that the CFO does not use financial test figures directly ~~from~~ 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.

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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

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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.

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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.

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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.

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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.

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APPENDIX B to Section 4.1.11 (Relating to Financial Assurance)

PERFORMANCE BOND

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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.

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APPENDIX C to Section 4.1.11 (Relating to Financial Assurance)

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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).

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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.

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APPENDIX E to Section 4.1.11 (Relating to Financial Assurance)

LOCAL GOVERNMENT GUARANTEE FOR CLOSURE

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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.

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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].

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...

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.

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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 a scrap tire). Examples of qualifying businesses may include: 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. Note that all transporters must comply with any applicable provisions in Section 7.0 and that scrap tire facilities whose primary purpose is to accumulate scrap tires (defined as no more than 1/3 of all tires on-site meeting the definition of a scrap tire) must comply with any 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 furthestmost 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 furthestmost tires.

13.3 Transition Provisions

13.3.1 No later than 90 days after the effective date of these regulations, all Group 1 scrap tire facilities must obtain a permit issued by the Department pursuant to these regulations and comply with these regulations. The permit can be requested by completing a Departmental “Scrap Tire Facility Permit Form” and submitting the appropriate documentation.

13.3.2 No later than 180 days after the effective date of these regulations, all Group 2 scrap tire facilities must obtain a permit issued by the Department pursuant to these regulations and comply with these regulations. The permit can be requested by completing a Departmental “Scrap Tire Facility Permit Form” and submitting the appropriate documentation. A scrap tire facility may exist and/or operate past that date only under the terms of a written agreement with the Department which establishes a reasonable schedule for bringing the scrap tire facility into compliance with these regulations.

13.4 Permit Application Requirements

At least 45 days for Group 1 and 90 days for Group 2 before commencement of any construction or operation of a new scrap tire facility, or for a preexisting scrap tire facility, subject to Subsection 13.3, the applicant 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 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 1st 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 retain 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 At a minimum, 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.
- 13.10.5 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 and 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 15 days:
- 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 At a minimum, 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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