

Regulatory Changes

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 sites

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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.

“Operator” means the person responsible for the overall operation of a solid waste facility or a scrap tire site.

“Owner” means the person who owns a facility or any part of a facility or a scrap tire site.

“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.

“Scrap tire” means a tire that is no longer managed as a useable product.

“Scrap tire site” means an accumulation of 100 or more scrap tires 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.

“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 sites, “setback” means the minimum amount of distance required between the scrap tire site 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.

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 13.5 of these regulations shall construct or operate a scrap tire site 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.

4.1.2. Public notice; hearing

Within 60 days after receipt of a completed application and all other required information, the Department will give public notice and the opportunity for a public hearing as provided in 7 **Del.C.** Ch. 60. The cost of the advertisement shall be borne by the applicant. A 15 day comment period will follow the publication date of each public notice. If no meritorious adverse public comments are received during this period, and the Secretary does not deem a public hearing to be in the best interest of the State, the Department will enter into the permit approval/denial phase. If a meritorious request for a hearing is received during the comment period, or if the Secretary deems a hearing to be in the best interest of the State, a public hearing will be held as provided in 7 **Del.C.** §6004 and 6006.

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4.1.9. Enforcement

4.1.9.1. The Department reserves the right to inspect any site, or any vehicle intended for use in the transportation of solid waste, before issuing a solid waste permit or a scrap tire permit for the site or the transporter.

4.1.9.2. The Department may, at any reasonable time, enter any permitted solid waste facility or scrap tire site or inspect any vehicle being used in the transportation of solid waste in order to verify compliance with the permit and these regulations.

4.1.9.3. The Department may require such reports, interviews, tests or other information necessary for the evaluation of permit applications and the verification of compliance with the permit and these regulations.

4.1.9.4. Any person using land, or allowing the use of land, for the storage, processing, or disposal of solid waste who violates a requirement of this regulation shall be subject to the provisions of Sections 6005, 6013, 6018, and 6025(c) of 7 **Del.C.** Ch. 60.

4.1.10. Replacement of Contaminated Water Supplies

If the Department determines, based on information obtained by or submitted to the Department or the Division of Public Health, that any drinking water supply well has become contaminated as a result of the construction or operation of a solid waste facility or a scrap tire site, the owner or operator of the facility or the scrap tire site will be required to construct and maintain, at his or her expense, a permanent alternative water supply of comparable quantity and quality to the source before it was contaminated. Such a determination will be subject to the review procedures contained in 7 **Del.C.** Ch. 60.

4.1.11. Financial Assurance Criteria

4.1.11.1. Applicability.

The requirements of this section apply to owners and operators of all solid waste facilities or scrap tire sites, except owners or operators who are State or Federal Government entities whose debts and liabilities are the debts and liabilities of the State or the United States.

4.1.11.2. Financial Assurance for Closure, Post-Closure Care, and Corrective Action

4.1.11.2.1. The owner or operator of a solid waste facility or a scrap tire site must provide assurance that the financial costs associated with closure, post-closure care, and corrective action can be met throughout the life of the facility or scrap tire site until released from these requirements by the Department after demonstrating successful completion of compliance with the requirements for each of these activities.

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4.1.11.2.4.1. Trust Fund

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Condition 4: The owner or operator shall submit the receipt from the trustee for the initial payment into the trust fund as well as the originally signed duplicate of the trust agreement for Department approval prior to receiving solid waste, or in the case of an existing facility or scrap tire site with existing financial assurance, prior to the cancellation of the existing financial assurance mechanism.

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 sites shall be in accordance with those specified in 7 DE Admin Code 1301, Delaware's Regulations Governing Solid Waste, Section 13, Subsections 13.5.2.6 and 13.5.6 or otherwise acceptable to the Department.

Condition 6: Schedule A, attached to the trust agreement, shall list the facility [or scrap tire site](#) name and address and the current cost estimate. Schedule A must relate the trust agreement to the specific facility [or scrap tire site](#) and obligation(s) being assured and shall be updated at least annually to account for inflation or other increases to the cost estimate. Costs reflected in Schedule A shall not be reduced without the written consent of the Department.

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Condition 11: After beginning closure, post-closure care, or corrective action, an owner or operator or other person authorized in accordance with Condition 7 may request reimbursements for partial expenditures by submitting itemized bills to the Secretary. The owner or operator may request reimbursements for partial closure, post-closure care, or corrective action only if sufficient funds are remaining in the trust fund to cover the maximum costs of completing the activities for which the trust agreement was established. Within 60 days after receiving bills for reimbursable closure, post-closure care, or corrective action activities, the Secretary will instruct the trustee to make reimbursements in those amounts as the Secretary specifies in writing. Reimbursements will be allowed only if the Secretary determines that the partial or final expenditures are in accordance with the approved closure, post closure care, or corrective action plan or are otherwise justified. If the Secretary has reason to believe that the maximum cost of closure over the remaining life of the facility [or scrap tire site](#) will be significantly greater than the value of the trust fund, he/she may withhold reimbursements of such amounts as he/she deems prudent. If the Secretary does not instruct the trustee to make such reimbursements, he/she will provide the owner or operator with a detailed written statement of reasons.

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4.1.11.2.4.2. Surety Bond

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Condition 6: The owner or operator shall submit the bond and standby trust fund for Department approval prior to receiving solid waste, or in the case of an existing [facility or scrap tire site with existing financial assurance](#), prior to the cancellation of the existing financial assurance mechanism.

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Condition 9: The surety shall become liable on the bond when the owner or operator has failed to fulfill the closure, post-closure care or corrective action activities as required. Upon notification by the

Department that the owner or operator has failed to perform closure or post-closure care guaranteed by a payment bond, the surety shall place funds in the amount guaranteed for the facility [or scrap tire site](#) into the standby trust fund. Upon notification that the owner or operator has failed to perform closure, post-closure care, or corrective action as guaranteed by a performance bond, the surety shall either perform the activities guaranteed by the bond or place funds in the amount guaranteed for the facility [or scrap tire site](#) into the standby trust fund.

4.1.11.2.4.3. Letter of Credit

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Condition 3: The owner or operator shall also submit an accompanying letter referring to the letter of credit by number and listing the following information: complete name and address of facility [or scrap tire site](#), issuing institution and date, and amount and purpose of funds assured.

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Condition 6: The owner or operator shall submit the letter of credit, standby trust and accompanying letter for Department approval prior to receiving solid waste, or in the case of an existing facility [or scrap tire site with existing financial assurance](#), prior to the cancellation of the existing financial assurance mechanism.

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4.1.11.2.4.4. Insurance

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Condition 6: A copy of the policy shall be submitted to the Department for its approval prior to receiving solid waste, or in the case of an existing facility [or scrap tire site with existing financial assurance](#), prior to the cancellation of the existing financial assurance mechanism.

4.1.11.2.4.5. Local Government Financial Test and Guarantee

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Condition 10: The guarantee, approved by the Department, must be effective prior to the initial receipt of waste or in the case of an existing facility [or scrap tire site with existing financial assurance](#), prior to the cancellation of the existing financial assurance mechanism.

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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 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.

Condition 11: The guarantor shall notify the Secretary of the Department and the Solid and Hazardous Waste Management Section by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 Bankruptcy, USC, naming the guarantor, owner or operator of the facility or scrap tire site as debtor, within 10 days after commencement of the proceeding.

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Condition 14: The guarantee, approved by the Department, must be effective prior to the initial receipt of waste or in the case of an existing facility or scrap tire site with existing financial assurance, prior to the cancellation of the existing financial assurance mechanism.

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4.1.11.3. Cost Estimate for Closure

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4.1.11.3.5. For scrap tire sites, the cost amount shall be in accordance with those specified in Section 13, Subsections 13.5.2.6 and 13.5.6 or otherwise acceptable to the Department.

4.1.11.4. Cost Estimate for Post-Closure Care

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4.1.11.4.5. For scrap tire sites, the cost amount shall be in accordance with those specified in Section 13, Subsections 13.5.2.6 and 13.5.6 or otherwise acceptable to the Department.

4.1.11.5. Cost Estimate for Corrective Action

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4.1.11.5.5. For scrap tire sites, the cost amount shall be in accordance with those specified in Section 13, Subsections 13.5.2.6 and 13.5.6 or otherwise acceptable to the Department.

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4.8. Application Procedures For Scrap Tire Sites

4.8.1. Application

At least 90 days before commencement of any construction or operation of a new scrap tire site, or for a preexisting scrap tire site, subject to Subsection 13.3, the applicant shall submit to the Department a Scrap Tire Permit Request Form and the following documentation:

- 4.8.1.1. Description. A description of the proposed scrap tire site, including volume of proposed or existing tires, whichever is larger, and, if applicable, the type of business at which the scrap tire site will occur.
- 4.8.1.2. Site Design. An accurate site diagram of the proposed scrap tire site showing all siting requirements of Subsection 13.5.3 and any other features connected to the construction and operation of the scrap tire site.
- 4.8.1.3. GIS Image. A current GIS image of the property where the scrap tire site is/will be located and the surrounding properties. On the image, delineate the property boundary and the scrap tire site location. In addition, label the nature of the surrounding properties (e.g. business with type of business specified, residence, etc.).
- 4.8.1.4. Title, Right, or Interest. Evidence of an applicant's title, right, or interest in the property for the proposed site location.
- 4.8.1.5. 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 site.
- 4.8.1.6. Financial Assurance. Evidence of financial assurance in the form of escrow accounts or other sureties are required to ensure the availability of adequate funds for cleanup operations or final closure of the scrap tire site. For each scrap tire site, 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 treatment, storage, disposal, or recycling facility (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.
- 4.8.1.7. Flooding. The most recent Federal Emergency Management Agency's 100-year flood data of the area to demonstrate that the proposed site 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.
- 4.8.1.8. Operations Manual. An Operations Manual prepared in accordance with Subsection 13.5.5.1.
- 4.8.1.9. Proof that all applicable zoning approvals and all appropriate federal, state, and local environmental permits have been obtained.

APPENDIX A to Section 4.1.11 (Relating to Financial Assurance)

TRUST AGREEMENT

Trust Agreement, the "Agreement," entered into as of [date] by and between [name of owner or operator], a [name of State] [insert "corporation," partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert 'incorporate in the State of ___' or "a national bank'], the "Trustee."

Whereas, the Delaware Department of Natural Resources and Environmental Control (the "Department") has established certain regulations applicable to the Grantor, requiring that an owner or operator of [insert type of operation] shall provide assurance that funds will be available when needed for closure and/or post-closure care of the [insert type of operation],

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities or scrap tire sites identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

(c) The term "Secretary" means the chief administrator and head of the Delaware Department of Natural Resources and Environmental Control and any successor.

Section 2. Identification of Facilities or Scrap Tire Sites 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 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; for a scrap tire sites, list the name, address, and required financial assurance amount].

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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 or site], the corporation or site 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.

[Signature of Notary Public]

APPENDIX B to Section 4.1.11 (Relating to Financial Assurance)

PERFORMANCE BOND

Date bond executed: _____

Effective date: _____

Principal: [Legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety(ies): [name(s) and business address(es)]

Name, address, and closure and/or post closure amount(s) for each facility [or scrap tire site](#) guaranteed by this bond (indicate closure and post-closure amounts separately); _____

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Department of Natural Resources and Environmental Control, an agency of the State of Delaware, (hereinafter called DNREC), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporation acting as co-sureties, we the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

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 [or scrap tire site](#) identified above" or "Recycling Approval, hereinafter called BUD in order to own or operate each recycling facility identified above"], and

Whereas said Principal is required to provide financial assurance for closure, or closure and post-closure care as a condition of the [insert "permit" or "BUD"], and

Whereas said Principal shall establish a standby trust as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of each facility or scrap tire site for which this bond guarantees closure, in accordance with the closure plan and other requirements of the [insert "permit" or "BUD"] as such plan and [insert "permit" or "BUD"] may be amended, pursuant to all applicable laws, statutes, rules, and regulations as such laws, statutes, rules, and regulations may be amended.

And, if the Principal shall faithfully perform post-closure care of each facility or scrap tire site for which this bond guarantees post-closure care, in accordance with the post-closure plan and other requirements of the [insert "permit" or "BUD"] as such plan and [insert "permit" or "BUD"] may be amended, pursuant to all applicable laws, statutes, rules and regulations as such laws, statutes, rules, and regulations may be amended.

Or, if the Principal shall provide alternate financial assurance as specified in Section 4.1.11 of the State of Delaware Regulations Governing Solid Waste, and obtain the DNREC Secretary's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the DNREC Secretary from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the DNREC Secretary that the Principal has been found in violation of the closure requirements, for a facility or scrap tire site for which this bond guarantees performance of closure, the Surety (ies) shall either perform closure in accordance with the closure plan and other [insert "permit" or "BUD"] requirements or place the closure amount guaranteed for the facility or scrap tire site into the standby trust fund as directed by the DNREC Secretary.

Upon notification by the DNREC Secretary that the Principal has been found in violation of the post-closure requirements for a facility or scrap tire site for which this bond guarantees performance of post-closure care, the Surety (ies) shall either perform post-closure care in accordance with the post-closure plan and other [insert "permit" or "BUD"] requirements or place in post-closure amount guaranteed for the facility or scrap tires site into the standby trust fund as directed by the DNREC Secretary.

Upon notification by the DNREC Secretary that the Principal has failed to provide alternate financial assurance as specified in Section 4.1.11 of the State of Delaware Regulations Governing Solid Waste, and obtain written approval of such assurance from the DNREC Secretary during the 90 days following receipt by both the Principal and the DNREC Secretary of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed

for the facility(ies) or scrap tires site(s) into the standby trust fund as directed by the DNREC secretary.

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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 D to Section 4.1.11 (Relating to Financial Assurance)

CERTIFICATE OF INSURANCE FOR CLOSURE OR POST-CLOSURE CARE

Name and Address of Insurer (herein called the "Insurer"):

Name and Address of Insured (herein called the "Insured"):

Facilities or Scrap Tire Site(s) Covered: [List for each facility or scrap tire site: Name, address, and the amount of insurance for closure and/or the amount for post-closure care (these amounts for all facilities or scrap tires sites covered must total the face amount shown below).]

Face Amount: _____

Policy Number: _____

Effective Date: _____

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure" or "closure and post-closure care" or "post-closure care"] for the facilities or scrap tires sites identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of the Delaware Regulations Governing Solid Waste Section 4.1.11, as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

The Insurer further certifies the following with respect to the insurance:

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APPENDIX E to Section 4.1.11 (Relating to Financial Assurance)

LOCAL GOVERNMENT GUARANTEE FOR CLOSURE

Guarantee made this [date] by the [owner or operator], a municipality incorporated under the laws of the State of Delaware, herein referred to as Guarantor, to the Department of Natural Resources and Environmental Control, an agency of the State of Delaware, Obligee. This guarantee is made on behalf of the [owner or operator, facility [or scrap tire site](#) name, and address], to the State of Delaware, Department of Natural Resources and Environmental Control (DNREC).

Recitals:

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for Guarantors as specified in the Delaware Regulations Governing Solid Waste (DRGSW), Section 4.1.11.2.2.5.

2. [Owner or operator] owns or operates the following solid waste management facility [or scrap tire site](#) covered by this guarantee: [List each facility [or scrap tire site](#): name and address].

3. "Closure plans" as used below refer to the plans maintained as required by the DRGSW section for the closure of facilities [or scrap tire sites](#) as identified above.

4. For value received from the Principal Debtor, Guarantor guarantees to DNREC that in the event that Principal Debtor fails to perform closure of the Facility [or scrap tire site](#) in accordance with the closure plan, other permit or interim status requirements, and all other legal requirements for closure of solid waste facilities [or scrap tire sites](#), then the Guarantor shall perform or pay a third party to perform closure of the Facility [or scrap tire site](#) and all other legal requirements for closure of a solid waste facility [or scrap tire site](#); or the Guarantor shall establish a fully funded trust fund as specified in Section 4.1.11.2.2.1 of the DRGSW, in the name of Principal Debtor in the amount of the current closure cost estimates as required by Section 4.1.11.3 of the DRGSW.

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10. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial assurance requirements of the DRGSW for the above-listed facilities [or scrap tire sites](#), except as provided in paragraph 10 of this agreement.

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, 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 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 [or scrap tire site](#) permit(s) or modifications of other applicable law.

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17. Guarantor's Board of Directors agrees to all of the terms and conditions of this Guarantee and have so stated in [name of guaranteeing entity] Board of Directors Resolution [title and/or number and date], a signed, certified copy of which is attached.

...

APPENDIX F to Section 4.1.11 (Relating to Financial Assurance)

CORPORATE GUARANTEE FOR CLOSURE

Guarantee made this [date] by the [owner or operator], a business entity organized under the laws of the State of Delaware, herein referred to as Guarantor, to the Department of Natural Resources and Environmental Control, an agency of the State of Delaware, Obligee. This guarantee is made on behalf of the [owner or operator, facility or scrap tire site name, and address], to the State of Delaware, Department of Natural Resources and Environmental Control (DNREC).

Recitals:

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for Guarantors as specified in the Delaware Regulations Governing Solid Waste (DRGSW), Section 4.1.11.2.2.6.

2. [Owner or operator] owns or operates the following solid waste management facility or scrap tire site covered by this guarantee: [List each facility or scrap tire site: name and address].

3. "Closure plans" as used below refer to the plans maintained as required by the DRGSW section for the closure of facilities or scrap tire sites as identified above.

4. For value received from the Principal Debtor, Guarantor guarantees to DNREC that in the event that Principal Debtor fails to perform closure of the Facility or scrap tire site in accordance with the closure plan, other permit or interim status requirements, and all other legal requirements for closure of solid waste facilities or scrap tire sites, then the Guarantor shall perform or pay a third party to perform closure of the Facility or scrap tire site and all other legal requirements for closure of a solid waste facility or scrap tire site; or the Guarantor shall establish a fully funded trust fund as specified in Section 4.1.11.2.2.1 of the DRGSW, in the name of Principal Debtor in the amount of the current closure cost estimates as required by Section 4.1.11.3 of the DRGSW.

...

10. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial assurance requirements of the DRGSW for the above-listed facilities or scrap tire sites, except as provided in paragraph 10 of this agreement.

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, 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 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 or scrap tire site permit(s) or modifications of other applicable law.

...

17. Guarantor's Board of Directors agrees to all of the terms and conditions of this Guarantee and have so stated in [name of guaranteeing entity] Board of Directors Resolution [title and/or number and date], a signed, certified copy of which is attached.

...

APPENDIX G to Section 4.1.11 (Relating to Financial Assurance)

STANDBY TRUST AGREEMENT

Standby Trust Agreement, the "Agreement," entered into as of [date] by and between [name of owner or operator], a [name of State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert 'incorporate in the State of ___' or "a national bank"], the "Trustee."

Whereas, the Delaware Department of Natural Resources and Environmental Control (the "Department") has established certain regulations applicable to the Grantor, requiring that an owner or operator of [insert type of operation] shall provide assurance that funds will be available when needed for closure and/or post-closure care of the [insert type of operation],

Whereas, the Grantor has elected to establish [insert either "a guarantee," "surety bond," or "letter of credit"] to provide all or part of such financial assurance for the facilities or scrap tire sites identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

(c) The term "Secretary" means the chief administrator and head of the Delaware Department of Natural Resources and Environmental Control and any successor.

Section 2. Identification of Facilities or Scrap Tire Sites 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 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; for a scrap tire sites, list the name, address, and required financial assurance amount].

...

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 or site], the corporation or site 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.

[Signature of Notary Public]

13.0 Scrap Tire Sites

13.1 Scope and Applicability

This section applies to new and existing areas established for scrap tires. This section does not apply to owner/operators who have a current and valid resource recovery permit (or other approval issued pursuant to the Solid Waste regulations).

13.2 Definitions

When used in this section, the following words, phrases, and terms have the meaning given below:

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

“Department” means The Department of Natural Resources and Environmental Control.

“Enclosed” means surrounded on all sides by walls, a roof, and a floor, with no significant openings.

“Operator” means the person responsible for the overall operation of a scrap tire site.

“Owner” means the person who owns a scrap tire site.

“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.

“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.

“Scrap tire site” means an accumulation of 100 or more scrap tires 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.

“Setback” means the minimum amount of distance required between the scrap tire site 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.

13.3 Transition Provisions

13.3.1 No later than 90 days after the effective date of these regulations, all scrap tire sites falling under Subsection 13.4 must obtain an Identification Number issued by the Department and comply with these regulations. The Identification Number can be requested by completing a Departmental Identification Request Form and submitting the appropriate documentation.

13.3.2 No later than 180 days after the effective date of these regulations, all scrap tire sites falling under Subsection 13.5 must obtain an Identification Number and a permit issued by the Department pursuant to these regulations and comply with these regulations. The Identification Number and the permit can

be requested by completing a Departmental Scrap Tire Site Permit Request Form and submitting the appropriate documentation. A scrap tire site 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 site(s) into compliance with these regulations.

13.4 Group 1: Small Scrap Tire Sites Associated with a Business

13.4.1 Applicability

13.4.1.1 This subsection applies to a single scrap tire site, operated by one of the types of businesses listed in Subsection 13.4.2.

13.4.1.2 If, within the property boundaries of the business, the business operates more than one scrap tire site, or if the business exceeds the scrap tire site volume limit in Subsection 13.4.2, then the business must instead comply with Subsection 13.5 requirements.

13.4.2 Types of businesses/institutions that may apply to obtain an Identification Number for their scrap tire site under this subsection, where the 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:

13.4.2.1 Tire retreading businesses;

13.4.2.2 Automobile graveyards or junkyards;

13.4.2.3 Local and state governmental agencies and/or facilities such as county maintenance, police, and fire;

13.4.2.4 Military institutions and/or facilities, including Dover Air Force Base and New Castle Air Base;

13.4.2.5 Farmers; and

13.4.2.6 Other automotive businesses whose primary purpose is not storing scrap tires.

13.4.3 Obtaining an Identification Number

At least 30 days before commencement of any construction or operation of a new scrap tire site, or for a preexisting scrap tire site, subject to Subsection 13.3, the applicant shall submit to the Department an Identification Request Form and the following documentation:

13.4.3.1 Description

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

13.4.3.2 Site Diagram

An accurate site diagram of the proposed scrap tire site showing all siting requirements of Subsection 13.4.4 and any other features connected to the construction and operation of the scrap tire site.

13.4.3.3 GIS Image

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

- 13.4.3.4 Title, Right, or Interest
Evidence of an applicant's title, right, or interest in the property for the proposed site location.
- 13.4.3.5 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 site.
- 13.4.3.6 Flooding
The most recent Federal Emergency Management Agency's 100-year flood data of the area to demonstrate that the proposed site 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.
- 13.4.3.7 Proof that all applicable zoning approvals and all appropriate federal, state, and local environmental permits have been obtained.
- 13.4.4 Siting and Design Standards
To qualify for an Identification Number under Subsection 13.4, 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.
 - 13.4.4.1 Setbacks
The following setbacks must be maintained:
 - 13.4.4.1.1 A minimum 20 foot setback between the scrap tire site and all public roads and property boundaries.
 - 13.4.4.1.2 A minimum 50 foot setback between the scrap tire site and residences in existence at the time the application is filed.
 - 13.4.4.1.3 A minimum 100 foot setback between scrap tire sites and off-site drinking water supply wells and water supply springs in existence at the time the application is filed.
 - 13.4.4.2 Floodplain
New and existing scrap tire sites shall not be located within the 100-year floodplain, based on flood data generated by the Federal Emergency Management Agency.
 - 13.4.4.3 Natural Resources
A scrap tire site shall not be located:
 - 13.4.4.3.1 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
 - 13.4.4.3.2 At a minimum, within 50 feet of:
 - 13.4.4.3.2.1 A state or federally regulated wetland, or
 - 13.4.4.3.2.2 A pond, river, or stream, except for artificial ponds or impoundments.
 - 13.4.4.4 Fire Preventive Measures
 - 13.4.4.4.1 All grasses, weeds, brush, debris, and other combustible material must not be present in or on scrap tire sites.

- 13.4.4.4.2 All scrap tire sites must have a 20 foot fire break around the pile. 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.
- 13.4.4.5 Stabilization
The area under the scrap tire site 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 site.
- 13.4.4.6 Department Discretion
The Department has the discretion to modify the Siting and Design Standards for a specific scrap tire site upon request from an owner/operator.
- 13.4.5 Mosquito Control
 - 13.4.5.1 The owner/operator of a scrap tire site must maintain mosquito control by either:
 - 13.4.5.1.1 Removing any water held in scrap tires immediately upon receipt at the site 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
 - 13.4.5.1.2 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.
 - 13.4.5.1.2.1 A larvicide must be reapplied as needed to maintain good larval control in accordance with the methods described in Subsection 13.4.5.1.2.
 - 13.4.5.1.2.2 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.

- 13.4.5.2 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 13.4.5.1.2.

13.4.6 Operational Requirements

- 13.4.6.1 The operator/owner must develop and implement an operations manual for the scrap tire site prepared in accordance with the requirements of Subsection 13.4.6. A paper copy of the Operations Manual must be readily available on-site. In addition to Subsection 13.4.6 requirements, this manual must include:
 - 13.4.6.1.1 Procedures for clean-up and maintenance of the sites; and
 - 13.4.6.1.2 Emergency procedures.
- 13.4.6.2 The siting and design standards as required by Subsection 13.4.4, above, must be met and maintained.
- 13.4.6.3 Only scrap tires may be stored in the designated scrap tire site.
- 13.4.6.4 Only scrap tires generated by or from the business may be present on the scrap tire site of that business.
- 13.4.6.5 Scrap tires sites are 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 site must be enclosed by a locked security fence.
- 13.4.6.6 Scrap tires cannot stay on-site indefinitely: each calendar year, the amount of scrap tires removed from the site 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.
- 13.4.6.7 The operator/owner shall keep copies of all documentation demonstrating lawful management of all scrap tires added to the site for a period of at least three years and all documentation must be available for inspection by the Department upon request.

- 13.4.6.8 Any scrap tire(s) removed from the site 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.
- 13.4.7 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.
- 13.4.8 Notification of Closure/Closure
When a scrap tire site ceases generating scrap tires or ceases meeting the requirements of these regulations, all scrap tires must be removed and the site shall be closed in a manner that will eliminate the need for further maintenance of the site. The following conditions apply:
 - 13.4.8.1 The Department shall be notified in writing a minimum of 90 days prior to the proposed date of cessation of use of a site.
 - 13.4.8.2 The notification of closure must include:
 - 13.4.8.2.1 A description of methods, procedures, and processes that will be used to close the site, including provisions that will be made for the proper removal of all scrap tires on the site when operation ceases;
 - 13.4.8.2.2 A description of restrictions that will be put in place to preclude delivery of additional scrap tires;
 - 13.4.8.2.3 An estimate of the cost of closing the site; and
 - 13.4.8.2.4 A schedule for implementation of closure procedures.
 - 13.4.8.3 A scrap tire site 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.
 - 13.4.8.4 At a minimum, the owner/operator must remove all scrap tires from the site. 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.
 - 13.4.8.5 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.
 - 13.4.8.6 The owner/operator must notify the Department within 10 days after closure activities are complete.

13.5 Group 2: Scrap tire sites not under Subsection 13.4 and not exceeding 901 square feet by 10 feet high

13.5.1 Applicability

This subsection applies to scrap tire sites that do not fall under Subsection 13.4 of these regulations, provided that the 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 most tires.

13.5.2 Obtaining a Permit and an Identification Number

At least 90 days before commencement of any construction or operation of a new scrap tire site, or for a preexisting scrap tire site, subject to Subsection 13.3, the applicant shall submit to the Department a Scrap Tire Permit Request Form and the following documentation:

13.5.2.1 Description

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

13.5.2.2 Site Diagram

An accurate site diagram of the proposed scrap tire site showing all siting requirements of Subsection 13.5.3 and any other features connected to the construction and operation of the scrap tire site.

13.5.2.3 GIS Image

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

13.5.2.4 Title, Right, or Interest

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

13.5.2.5 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 site.

13.5.2.6 Financial Assurance

Evidence of financial assurance in the form of escrow accounts or other sureties are required to ensure the availability of adequate funds for cleanup operations or final closure of the scrap tire site. For each scrap tire site, 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 treatment, storage, disposal, or recycling facility (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.

13.5.2.7 Flooding

The most recent Federal Emergency Management Agency's 100-year flood data of the area to demonstrate that the proposed site 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.

13.5.2.8 Operations Manual

An Operations Manual prepared in accordance with Subsection 13.5.5.1.

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

13.5.3 Siting and Design Standards

To qualify for an Identification Number and a permit under Subsection 13.5, 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.

13.5.3.1 Setbacks

The following setbacks must be maintained:

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

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

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

13.5.3.2 Floodplain

New and existing scrap tire sites shall not be located within the 100-year floodplain, based on flood data generated by the Federal Emergency Management Agency.

13.5.3.3 Natural Resources

A scrap tire site shall not be located:

13.5.3.3.1 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

13.5.3.3.2 At a minimum, within 50 feet of:

13.5.3.3.2.1 A state or federally regulated wetland, or

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

13.5.3.4 Fire Preventive Measures

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

13.5.3.4.2 Each scrap tire pile must be separated by a 25 foot minimum strip fire break. 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.

- 13.5.3.4.3 A 50 foot mineral strip fire break must be constructed around the ground surface perimeter of the scrap tire site. 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.

- 13.5.3.5 Stabilization

The area under the scrap tire site 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 site.

- 13.5.3.6 Department Discretion

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

- 13.5.4 Mosquito Control

- 13.5.4.1 The owner/operator of a scrap tire site must maintain mosquito control by either:

- 13.5.4.1.1 Removing any water held in scrap tires immediately upon receipt at the site 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

- 13.5.4.1.2 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.

- 13.5.4.1.2.1 A larvicide must be reapplied as needed to maintain good larval control in accordance with the methods described in Subsection 13.5.4.1.2.

13.5.4.1.2.2 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.

13.5.4.2 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 13.5.4.1.2.

13.5.5 Operational Requirements

13.5.5.1 The operator/owner must develop and implement an operations manual for the scrap tire site(s) prepared in accordance with the requirements of Subsection 13.5.5. A paper copy of the Operations Manual must be readily available on-site. In addition to Subsection 13.5.5 requirements, this manual must include:

13.5.5.1.1 Procedures for clean-up and maintenance of the sites;

13.5.5.1.2 Information that would enable supervisory, operating personnel, and persons evaluating the operation of the scrap tire site to determine what requirements must be followed for a safe, orderly, and environmentally sound operation on a daily and yearly basis; and

13.5.5.1.3 Emergency procedures.

13.5.5.2 The operator/owner shall take whatever measures are necessary to familiarize all personnel responsible for operation of the scrap tire sites with relevant sections of the operations manual, including training on the procedures to be followed in case of an emergency.

13.5.5.3 The siting and design standards as required by Subsection 13.5.3, above, must be met and maintained.

13.5.5.4 Only scrap tires may be stored in the designated scrap tire site.

13.5.5.5 Scrap tires sites are 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 site must be enclosed by a locked security fence.

13.5.5.6 Scrap tires cannot stay on-site indefinitely: each calendar year, the amount of scrap tires removed from the site 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.

13.5.5.7 The operator/owner shall keep copies of all documentation demonstrating lawful management of all scrap tires added to the site for a period of at least three years and all documentation must be available for inspection by the Department upon request.

13.5.5.8 Any scrap tire(s) removed from the site 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.

13.5.6 Financial Assurance

For each scrap tire site, 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 in violation of these regulations.

13.5.7 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.

13.5.8 Notification of Closure/Closure

When a scrap tire site ceases accepting and/or generating scrap tires or ceases meeting the requirements of these regulations, all scrap tires must be removed and the site shall be closed in a manner that will eliminate the need for further maintenance of the site. The following conditions apply:

13.5.8.1 The Department shall be notified in writing a minimum of 90 days prior to the proposed date of cessation of use of a site.

13.5.8.2 The notification of closure must include:

13.5.8.2.1 A description of methods, procedures, and processes that will be used to close the site, including provisions that will be made for the proper removal of all scrap tires on the site when operation ceases;

13.5.8.2.2 A description of restrictions that will be put in place to preclude delivery of additional scrap tires;

13.5.8.2.3 An estimate of the cost of closing the site; and

13.5.8.2.4 A schedule for implementation of closure procedures.

- 13.5.8.3 A scrap tire site 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.
- 13.5.8.4 At a minimum, the owner/operator must remove all scrap tires from the site. 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.
- 13.5.8.5 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.
- 13.5.8.6 The owner/operator must notify the Department within 10 days after closure activities are complete.

13.6 All other scrap tire sites

- 13.6.1 All other scrap tire sites not under Subsection 13.4 or Subsection 13.5 or owner/operators who do not have a current and valid resource recovery permit (or other approval issued pursuant to the Solid Waste regulations) are prohibited and all scrap tires must be removed in accordance with this subsection and the site shall be closed in a manner that will eliminate the need for further maintenance of the site. The following conditions apply:
 - 13.6.1.1 The owner/operator must submit to the Department within 15 days:
 - 13.6.1.1.1 A description of methods, procedures, and processes that will be used to close the site, including provisions that will be made for the proper removal of all scrap tires on the site when operation ceases;
 - 13.6.1.1.2 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.
 - 13.6.1.1.3 A description of restrictions that will be put in place to preclude delivery of additional scrap tires;
 - 13.6.1.1.4 An estimate of the cost of closing the site; and
 - 13.6.1.1.5 A schedule for implementation of closure procedures.
 - 13.6.1.2 A scrap tire site 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.
 - 13.6.1.3 At a minimum, the owner/operator must remove all scrap tires from the site. 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.

- 13.6.1.4 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.
- 13.6.1.5 The owner/operator must notify the Department within 10 days after closure activities are complete.
- 13.6.2 Failure to promptly and properly close the scrap tire site may result in an enforcement action.