

CHAPTER 102
SOLID WASTE MANAGEMENT

DIVISION V
WASTE TIRE MANAGEMENT

567—102.400(455D) Purpose. The purpose of this division is to establish guidelines for the proper management of waste tires, including collection, hauling, storage, processing, disposal, and beneficial reuse of waste tires and processed waste tire materials. This division shall not be construed to exempt a waste tire storage site, processing site or waste tire hauler from compliance with more stringent local ordinances, fire codes, or other applicable statutes.

567—102.401(455D) Definitions and incorporation by reference. In addition to the definitions in Iowa Code sections 455D.11, 455D.11I and in 567—Chapter 100, the following definitions shall apply to Division V of this chapter:

“*Crumb rubber*” means a material derived by reducing waste tires or other rubber into uniform-granules of 3/8 inch or less, with the inherent reinforcing materials such as steel and fiber removed along with other contaminants.

“*Cut tire*” means a waste tire from which the tire face, tread, or sidewall has been cut or removed for beneficial use or final disposal. A cut tire shall consist of pieces greater than 18 inches on any one side.

“*End user*” means an industry, utility, business, entity, or individual that receives whole waste tires or processed tires and uses them for a raw material in a manufactured product, for energy recovery, or other beneficial use. A tire processor shall not be considered an end user.

“*Operator*” means the individual, corporation, or party that manages the daily work activities related to the collection, storage, and processing of waste tires and processed tire materials at a waste tire stockpile site or processing facility.

“*Owner*” means the individual, corporation, or party that is the legal owner of the real estate where a waste tire stockpile site or processing facility exists.

“*Passenger tire equivalent*” means a conversion measurement that is used to estimate waste tire weights and volume amounts and in which one passenger car tire with a rim diameter of 19 inches or less is equal to 25 pounds. One cubic yard of volume shall contain 10 passenger tire equivalents. Tires larger than a passenger car tire shall be evaluated for volume using this conversion measurement.

“*Processed tire*” means a tire that has been processed through grinding, shredding, or other means, thereby producing a material that is readily suitable for marketing into product manufacturing, energy recovery, or other beneficial reuse markets. Waste tires that have been compacted, baled, cut, or shredded without a suitable market shall not be considered processed tires and shall be regulated as solid waste. Waste tires that have been cut into pieces that are not more than 18 inches on any side shall be accepted at a permitted sanitary landfill for final disposal as solid waste.

“*Tire casing*” means a used and worn tire that is suitable for the process of recapping. A tire casing stored for more than one year without being recapped shall be considered a waste tire.

“*Used tire*” means a tire that previously has been on a vehicle but that retains suitable tread depth and is free of damage or defects so that it may be safely returned to its original purpose.

“*Waste tire stockpile*” means a permitted site that is used for the storage, collection, or deposit of waste tires, including indoor, outdoor, and underground storage.

567—102.402(455D) Registration of waste tire haulers. A waste tire hauler shall register with and obtain a certificate of registration from the department in accordance with this chapter before hauling waste tires in Iowa. Waste tire haulers that pick up tires within Iowa or that bring waste tires to Iowa for disposal, storage, or processing shall be required to register.

102.402(1) Registration exemption. A waste tire hauler shall not be required to register under the following circumstances:

a. The waste tire hauler only travels through the state with waste tires as a part of interstate commerce and does not pick up, deposit, transfer, store, or dispose of any waste tires in Iowa.

b. The waste tire hauler is a municipal, county, state, or other public agency, and the vehicles used for transport of the waste tires are owned and licensed by the public agency. The agency may only haul up to 10,000 waste tires within a 12-month period without obtaining a waste tire hauler's registration.

102.402(2) Annual registration.

a. A waste tire hauler registration shall be valid for one year, and the waste tire hauler must annually renew the waste tire hauler registration in order to continue to provide waste tire hauling services within the state.

b. Initial registration of a waste tire hauler shall be valid upon the date of issuance by the department and shall be effective for a minimum 12-month period thereafter, with expiration of the initial registration to occur on either January 1 or July 1, whichever date occurs most closely after the initial 12-month registration period.

c. Subsequent annual renewals of the waste tire hauler's registration shall then occur on either January 1 or July 1, subject to the date of the original expiration as referenced in 102.402(2)“b.”

102.402(3) Registration form. A waste tire hauler shall submit the following information on a form prescribed by the department for application for or renewal of registration as a waste tire hauler.

a. The name of the waste tire hauler and any other names under which the waste tire hauler may do business.

b. The principal address of the waste tire hauler and any other address at which the waste tire hauler may do business.

c. A business telephone number.

d. The name and address of the principal officer of a corporate waste tire hauler or the principal owner or owners of a waste tire hauler operating a proprietorship or partnership.

e. The following information for each motor vehicle used by the waste tire hauler for hauling waste tires:

- (1) The name and address of the owner of the vehicle.
- (2) The vehicle identification number of the vehicle.
- (3) The year, make, and model of the vehicle.
- (4) The license plate number of the vehicle.
- (5) The name of the state in which the vehicle is registered.

f. A statement that the waste tire hauler agrees to comply with the vehicle identification requirements contained in this chapter.

g. The name of the permitted facility for waste tire disposal, storage or processing, or of another site of end use where the waste tires will be transported.

h. A statement that the waste tire hauler shall pay all amounts due to any individual or group of individuals when due for damages caused by improper disposal of waste tires by the waste tire hauler or the waste tire hauler's employee while acting within the scope of employment.

i. A statement that the waste tire hauler agrees to notify the department within 30 days of any change in the information contained in the registration form.

j. The signature of the waste tire hauler.

102.402(4) Waste tire hauler registration fee. An application for initial registration or renewal shall be accompanied by a fee of \$50.

567—102.403(455D) Waste tire hauler bond.

102.403(1) An application for registration or renewal shall not be approved by the department until the waste tire hauler has provided a surety bond in the sum of a minimum of \$150,000, as provided for in Iowa Code subsection 455D.11I(6).

102.403(2) Bond requirements.

a. The bond shall be on a form prescribed by the department, and executed by a surety company authorized by the commissioner of insurance to do business in Iowa. The bond provided to the department shall be an original, or copy thereof.

b. The surety shall name the state of Iowa as the obligee for the bond.

c. The bond shall be continuous in nature until canceled by the surety. The surety shall provide at least 30 days' notice in writing to the waste tire hauler and the department in the event of any intent to cancel the bond, and the effective date of the cancellation.

d. The waste tire hauler shall provide the department with a statement from the surety with each waste tire hauler registration renewal application, noting that the bond is paid and current for the annual period for which the waste tire hauler has applied for registration renewal.

567—102.404(455D) Marking of equipment. The following information shall be displayed on each side of equipment used by a registered waste tire hauler for the hauling of waste tires, in letters and figures large enough to be read easily at a distance of 50 feet and in a color in contrast to the background.

1. The name of the registered waste tire hauler under whose authority the equipment is being operated.

2. The address of the registered waste tire hauler (city and state).

3. The registration number of the waste tire hauler, as assigned by the department. The hauler shall apply the following letters and symbol "IA TH#" preceding the assigned registration number.

567—102.405(455D) Disposition of waste tires collected.

102.405(1) All tires collected by a waste tire hauler for which a fee has been collected or is to be charged shall be defined as solid waste and shall be regulated as such.

102.405(2) Upon receipt of waste tires from a person or business, the waste tire hauler shall handle the waste tires as follows:

a. The waste tires shall be directly transported to a tire collector, tire processor, or waste tire stockpile site, as permitted and approved by the department or applicable local or state agencies.

b. The waste tires must be transported to a permitted site within 72 hours of initial pickup from the generator of the waste tires.

c. The waste tire hauler may not establish or operate any intermediate storage, waste sorting, transfer, or processing activities regarding the waste tires collected, unless such activities occur at a facility or site for which a waste tire stockpile permit or processing permit has been issued in accordance with Iowa Code chapter 455D.11 and rule 567—102.407(455D) and rule 567—102.409(455D).

567—102.406(455D) Waste tire hauler reporting requirements. A registered waste tire hauler shall submit a semiannual report to the department on a form prescribed by the department. The report shall provide the department with appropriate information to ensure that waste tires recovered by the waste tire hauler have been handled properly for disposal or processing. Failure of a registered waste tire hauler to submit a timely report will result in denial of the waste tire hauler's renewal of registration.

102.406(1) Reporting period. The waste tire hauler shall submit semiannual reports to the department according to the following schedule:

a. For waste tires collected during the six-month period beginning January 1 through June 30, the hauler shall submit a report by the following September 1.

b. For waste tires collected during the six-month period beginning July 1 through December 31, the hauler shall submit a report by March 1 of the following year.

102.406(2) Information required. The semiannual report shall include the following information. All waste tire quantities determined by count or weight shall be reported in passenger tire equivalents.

a. Quantity of waste tires collected by the waste tire hauler from within Iowa for the reporting period.

b. Quantity of waste tires that are brought to Iowa by the waste tire hauler from out-of-state sources during the reporting period.

c. Final disposition of all the waste tires collected during the reporting period by listing each tire collector, tire processor, waste tire stockpile site, or other beneficial site of end use, as approved by the department, and the total quantities of waste tires that the hauler has delivered to each.

102.406(3) Documentation and record keeping. The waste tire hauler shall keep appropriate records, including, but not limited to, receipts, invoices, or manifests, to document all quantities of waste tires hauled and disposed of by the waste tire hauler for the reporting period. These records shall be kept by the waste tire hauler for a minimum of three years, and shall be available for audit or inspection at the request of the department.

567—102.407(455D) Waste tire stockpiling.

102.407(1) Storage quantity limitations.

a. No business or individual shall stockpile more than 500 passenger tire equivalents without obtaining a permit for a waste tire stockpile pursuant to subrule 102.407(2).

b. Businesses or individuals may temporarily stockpile up to 1,500 passenger tire equivalents without obtaining a waste tire stockpile permit, subject to the following requirements:

(1) The waste tires are stockpiled only in a mobile container, truck, or trailer, provided or serviced by a registered waste tire hauler.

(2) The waste tires are removed by a registered waste tire hauler or delivered to a permitted waste tire processor at least every 60 days.

(3) The waste tire generator has a written copy of a contract or service agreement for waste tire disposal services from a registered waste tire hauler.

c. A permitted sanitary disposal project shall be allowed to stockpile up to 1,500 passenger tire equivalents without a permit if the waste tires are removed at least every 120 days and are stockpiled in a manner to minimize the collection of water.

d. Persons who use waste tires for an approved beneficial use shall not be required to obtain a waste tire stockpile permit, subject to their compliance with the provisions of rule 567—102.411(455D).

102.407(2) Waste tire stockpile permits.

a. Any tire collector, business or individual storing more than 500 passenger tire equivalents on any one site must obtain a waste tire stockpile permit. An authorized vehicle recycler, as licensed by the Iowa department of transportation, may store up to 3,500 passenger tire equivalents without a waste tire stockpile permit; any storage beyond this amount shall require full compliance with this subrule. This subrule is applicable to the indoor, outdoor, and underground storage of waste tires. If the site cannot meet the conditions to obtain a waste tire stockpile permit, the waste tires must be removed from the site and properly disposed of within 30 days.

b. Any tire collector, business or individual seeking to construct a waste tire stockpile must obtain a permit from the department prior to initiating operations. The permit shall be issued to the owner of the site or the designated tire collector that will be operating the stockpile.

c. Permits shall have an annual fee of \$850, payable to the department upon the application for a permit, and due annually beginning each July 1 thereafter at the rate of \$850. Permit fees shall not be prorated. The permit shall be valid for a period of three years from date of issuance. Failure to remit the annual renewal fee shall be cause for revocation.

d. Application for a permit shall be on a form prescribed by the department and include, at a minimum, the following:

(1) The name, address, and telephone number of the individual who directly owns the stockpile site.

(2) The name, address, and telephone number of the tire collector at the stockpile site, if different from the owner.

(3) A scaled map showing all areas proposed to be used for the stockpiling of waste tires, all property boundaries of the site, and the location of all buildings and major improvements on the site and within 300 feet of the property boundary.

(4) A vector control plan to prevent infestations of mosquitoes and rodents for aboveground storage. The plan shall be prepared by a firm that provides professional vector management services. Upon request,

the permittee must provide documentation to show implementation and monitoring of the vector control plan.

(5) A site closure plan describing the actions that would be taken to properly dispose of all waste tire materials at the site 30 days prior to any intent to discontinue operations, so that upon discontinuance of operations, no violation of waste tire or solid waste disposal laws will exist.

(6) An emergency response and remedial action plan, developed and implemented according to applicable provisions of 567—Chapter 100. The applicant shall provide documentation that an opportunity for input and review of the plan was extended to the local fire department and local emergency management coordinator.

(7) A financial assurance instrument in compliance with rule 567—102.410(455D).

(8) A certified check for \$850 made payable to the Iowa Department of Natural Resources.

102.407(3) Permitted stockpiling requirements. A permitted waste tire stockpile site shall meet the following minimum permit conditions:

a. Storage, open area.

(1) A waste tire stockpile site shall not contain more than 250,000 passenger tire equivalents.

(2) A single waste tire pile shall not contain more than 50,000 cubic feet of waste tires.

(3) The vertical dimension of a waste tire pile shall not exceed 10 feet.

(4) A single waste tire pile shall not be more than 100 feet in length.

(5) The surface area covered by a waste tire pile shall not exceed 5,000 square feet; the pile may not be constructed upon any waste tire materials or other flammable materials.

(6) A 50-foot fire lane must be maintained between any two tire piles.

(7) All waste tire piles shall be located at least 50 feet from any building.

(8) Trees and brush shall be cleared within 50 feet of any tire pile.

(9) Combustible materials or volatile chemicals shall not be stored within 50 feet of any tire pile unless stored in approved fire-resistant containers or cabinets.

(10) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 100 feet of any one portion of the tire stockpile area.

(11) The site must be graded to prevent any standing pools of water and to limit the runoff and run-on of precipitation in all areas where waste tires are stockpiled.

(12) A waste tire pile must be at least 200 feet from any well, lake, pond, river, stream, sinkhole, or tile line surface intake unless appropriate grading, or the construction of a barrier, dike, or berm, is completed to intercept surface water flows that may impact such interceptors. This distance may then be reduced to 50 feet.

(13) The stockpile site must be secured by a fence or barrier of a minimum of 6 feet in height to impede unauthorized vehicle and personal access. All gates and entry points shall be secured and locked when site personnel are not present.

(14) No open burning of any type shall be allowed at the permitted stockpile site. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any tire storage area.

(15) Signs shall be posted every 100 feet on site, placed for visibility of personnel on site, and state: "Open burning on-site prohibited." The perimeter of the site shall be posted with signs every 100 feet, placed for visibility to those off site, that state: "Highly flammable materials on-site. Burning in area not recommended."

(16) All waste tire piles shall be located at least 300 feet from any property line, street, or public right-of-way.

b. Stockpiling, enclosed area. Storage of waste tires shall comply with the requirements of 102.407(3)"a," subparagraphs (2) through (6), and the following:

(1) To qualify as an enclosed area, the area must be enclosed in a structure with a permanent roof and lateral protection to prevent precipitation from accumulating within the waste tires.

(2) An enclosed stockpiling structure shall not contain more than 50,000 passenger tire equivalents.

(3) Combustible materials or volatile chemicals shall not be stored in a structure permitted for tire stockpiling, unless stored in approved fire-resistant containers or cabinets.

(4) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 50 feet of any one portion of the tire stockpiling area.

(5) The structure must be secured from unauthorized access.

(6) No open burning of any type shall be allowed at the permitted stockpile site. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any tire stockpiling area. The exterior of the enclosed stockpiling area shall be posted with signs, placed every 100 feet, that state: "Highly flammable materials stored inside. Burning on-site prohibited."

102.407(4) Reporting requirements. The holder of a permit for a waste tire stockpile facility shall submit a semiannual report to the department on a form prescribed by the department. The report shall state the following:

a. Quantity of waste tires stockpiled at the facility at the time of reporting, determined by count or weight and reported in passenger tire equivalents.

b. Quantity of waste tires received from in-state sources during the reporting period.

c. Quantity of waste tires received from out-of-state sources during the reporting period.

d. For any waste tires removed from the permitted stockpile site during the reporting period, the quantity shall be given by equivalent count or weight of such waste tires removed. Documentation shall be provided to denote how the reported quantity of tires were disposed of at a permitted facility, processed, or reused.

567—102.408(455D) Used tires.

102.408(1) Used tire storage. A used tire shall be stored in a manner that provides for the following:

a. Prevention of the collection of water, dirt, or debris within the tire.

b. Organized storage through stacking, rows, and sorting which provides for accurate descriptions and counts of the types and sizes of tires.

c. Storage conforms to applicable local and state fire codes.

102.408(2) Inventory resale and reuse. Used tires stored for more than one year without documentation of active resale or reuse, of tire inventory in a proportion equal to 75 percent of the amount stored, shall be considered waste tires and shall be subject to the applicable waste tire stockpiling and disposal rules of this division.

567—102.409(455D) Waste tire processing.

102.409(1) Waste tire processing permits.

a. Any business or individual operating a tire processing facility shall obtain a waste tire processing permit prior to commencing operations. The permit shall be issued to the owner of the site or the individual that will be operating the tire processing facility.

b. A permitted sanitary disposal project that accepts waste tires to cut, grind, or compact only for final disposal shall not be required to obtain a waste tire processing permit. Such facilities shall not store any cut or shredded waste tire materials for more than 30 days prior to final disposal.

c. Businesses or individuals operating mobile waste tire processing equipment shall be required to obtain a waste tire processing permit. The permit shall authorize the operator to provide waste tire processing services statewide; however, mobile operations shall not be allowed to store any processed or whole waste tires at any facility or site owned or operated by the permittee unless specifically authorized in writing by the department.

d. Businesses or individuals who cut, grind, or compact for disposal waste tires generated directly from operations at their own on-site manufacturing operation or vehicle or equipment service facility, shall not be required to obtain a waste tire processing permit provided all waste tire materials processed on site are disposed of at least every 30 days at a permitted facility.

e. Processing permits shall have an annual fee of \$850, payable to the department upon the application for a permit, and due annually beginning each July 1 thereafter at the rate of \$850. Permit fees shall not be

prorated. The permit shall be valid for a period of three years from date of issuance. Failure to remit the annual renewal fee shall be cause for revocation.

f. A permitted processing facility shall have a site closure plan. The plan shall describe the actions that would be taken to properly dispose of all waste tire materials, in whole or processed form, at the site 30 days prior to any intent to discontinue operations, so that upon discontinuance of operations, no violation of waste tire or solid waste disposal laws exist.

g. A permitted processing facility shall have an emergency response and remedial action plan, developed and implemented according to applicable provisions of 567—Chapter 100. The applicant shall provide documentation that an opportunity for input and review of the plan was extended to the local fire department and local emergency management coordinator.

h. A permitted waste tire processing facility shall obtain financial assurance in accordance with rule 567—102.410(455D), as necessary.

i. Application for a permit shall be on a form prescribed by the department and include, at a minimum, the following:

(1) The name, address, and telephone number of the individual who directly owns the tire processing facility.

(2) The name, address, and telephone number of the operator of the processing facility, if different from the owner.

(3) The type of processing operations to be conducted, including descriptions of processing equipment and its hourly capacity, operating hours of the facility, and types of processed tire materials to be produced.

(4) A scaled map showing all areas proposed for waste tire stockpiling and processing operations, all property boundaries of the site, and the location of all buildings and major improvements on the site and within 300 feet of the property boundary.

(5) A site closure plan, as referenced in paragraph 102.409(1)“*f.*”

(6) An emergency response and remedial action plan, as referenced in paragraph 102.409(1)“*g.*”

(7) A certified check for \$850 made payable to the Iowa Department of Natural Resources.

(8) A financial assurance instrument as referenced in paragraph 102.409(1)“*h.*”

102.409(2) Permitted processing facility requirements. A permitted waste tire processing facility shall meet the following minimum permit requirements.

a. The site must be graded to prevent any standing pools of water and to limit the runoff and run-on of precipitation in all areas where waste tires are stockpiled or processed tire material is staged prior to sale.

b. The processing facility site must be secured by a fence or barrier of a minimum of 6 feet in height to impede unauthorized vehicle and personal access. All gates and entry points shall be secured and locked when site personnel are not present.

c. No open burning of any type shall be allowed at the permitted processing facility. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any tire stockpiling or staging area.

d. Signs shall be posted every 100 feet on site, placed for visibility of personnel on site, and state: “Open burning on-site prohibited.” The perimeter of the site shall be posted with signs every 100 feet, placed for visibility to those off site, that state: “Highly flammable materials on-site. Burning in area not recommended.”

102.409(3) Preprocessed whole waste tire stockpiling.

a. Permitted stockpiling of whole waste tires on site prior to processing shall be limited to the quantity of tires that the facility has the ability to process within a three-day period. This quantity shall be determined by multiplying the actual number of working hours that processing is normally to occur during a typical three-day period by 80 percent of the manufacturer’s specifications of hourly capacity of the processing equipment. After one year of the facility’s operation, documented actual hourly production shall be used for this permit determination in lieu of the manufacturer’s equipment specifications.

b. A tire processor may stockpile an additional three-day capacity of preprocessed whole waste tires, above the initial three-day capacity, using the same quantity determination as stated in paragraph

102.409(3)“a,” subject to the tire processor’s obtaining and maintaining financial assurance for these additional tires to be stockpiled prior to processing in accordance with rule 567—102.410(455D).

c. Under no circumstance shall a waste tire processor be allowed to stockpile more than 75,000 preprocessed whole waste tires, measured as passenger tire equivalents, through any combination of processing performance or financial assurance. All waste tires on site, including those stored indoors or outdoors or in trucks, trailers, or mobile cages, shall be counted in determining compliance with this subrule.

d. Any single waste tire shall not be stockpiled at the processing facility for more than 30 days before the tire is processed.

e. Preprocessed whole waste tires stockpiled outdoors shall comply with subparagraphs 102.407(3)“a”(2) through (16) and any waste tires stockpiled in trucks, trailers, or mobile containers must be at least 10 feet from any property line or building.

g. Indoor stockpiling of whole waste tires shall not be allowed within 20 feet of any waste tire processing or handling equipment. All waste tires being actively unloaded and fed into processing equipment, including those being off-loaded from trucks, trailers, or mobile containers, shall be cleared at least 20 feet away from the processing equipment by the end of the last working shift of the day. Any remaining indoor stockpiling shall comply with the requirements of subparagraphs 102.407(3)“b”(3) through (6), and the following:

(1) No more than 25,000 passenger tire equivalents shall be stockpiled indoors.

(2) Combustible materials or volatile chemicals shall not be stored within 25 feet of any waste tire stockpile area unless they are stored in approved containers pursuant to applicable fire codes.

(3) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 50 feet of any one portion of indoor tire stockpile area.

(4) The stockpiling structure must be secured from unauthorized access.

102.409(4) Processed tire storage.

a. Storage of processed tire materials at a tire processing facility shall be limited to the volume of material in aggregate that the processor manufactures within a consecutive 60-day period, using the facility’s daily average capacity for processing whole tires as determined in paragraph 102.409(3)“a.” The department shall have the final authority for determining the allowable quantities of processed tire materials to be stored.

b. Under no circumstances shall the equivalent of more than 500,000 processed tires, or 5,000 tons of material, be stored at the processing site.

c. All processed tire material at the site of processing shall be stored as follows:

(1) Processed tires shall be stored in piles no more than 15 feet in height, 100 feet in length, and 50 feet in width and shall contain no more than 75,000 cubic feet of product by volume.

(2) A 50-foot fire lane must be maintained between piles of processed tire material, with the base of the lane kept free from the accumulation of waste tire-derived residuals or materials or other debris.

(3) All processed tire material shall be stored at least 50 feet from any property line, street, public right-of-way, or building.

(4) Trees and brush shall be cleared within 50 feet of the storage of all processed tire material.

(5) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 100 feet of any one portion of processed tire stockpile area.

d. For indoor storage of more than 5,000 cubic feet of processed tire material, the material shall be stored on concrete floors and all retaining walls, bins, barriers, and roofing material for the material storage shall be constructed of nonflammable materials.

e. The processor must demonstrate a reasonable market demand for all types and quantities of processed product stored at the processing site. Market demand for processed waste tire products shall be demonstrated by the processor through at least one of the following criteria:

(1) Active contracts, purchase orders, or supply agreements with an end user, noting quantities of material required by the end user, specifications of the quality of the product required by the end user, and monthly or annual demand of product by the end user from the processor. This information shall be made available for review by the department as required to determine compliance with this subrule.

(2) Historic, ongoing demand for product by an end user or type of end user, within the state or surrounding region.

(3) Information and evidence that any proposed new product or use for processed waste tires produced by the tire processor will be marketed in a timely fashion, with sufficient demand and consumption by end user markets.

f. The department shall have the final authority in determining storage limitations, including prohibition, for processed tire products when active markets are not evident from information provided by the tire processor.

102.409(5) Reporting requirements. The holder of a permit for a waste tire processing facility shall submit a semiannual report to the department on a form prescribed by the department. The report shall state the following:

a. Quantity of waste tires received by the facility during the reporting period.
b. Quantity of waste tires received by the facility from in-state sources.
c. Quantity of waste tires received by the facility from out-of-state sources.
d. Quantity of unprocessed waste tires on hand at the facility at the time of reporting.
e. Quantity of waste tires processed and delivered to end users during the reporting period, by product type, with determinations of quantities of product delivered to identified in-state and out-of-state markets or sites.

f. Quantity of processed tire material currently stored at the facility, by product type.

102.409(6) Disposal of solid wastes.

a. All waste materials, residuals, and scraps derived from tire processing operations shall be regulated as solid waste. These materials include, but are not limited to, tire bead rings, metal wire, synthetic fibers, and cording.

b. All of these solid wastes must be disposed of at least every 60 days at a permitted sanitary disposal project, scrap recycler, or location, as approved by the department.

c. Documentation of the disposal of these solid wastes must be kept at the processing facility for a period of three years and shall be available for audit or inspection at the request of the department.

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

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

102.410(2) Financial assurance amounts required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

guarantor's chief financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a substantial business relationship with the owner or operator, this letter must describe this substantial business relationship and the value received in consideration of the guarantee.

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

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

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

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

(3) The department may, based on a reasonable belief that the corporate guarantor may no longer assure the funds of the written guarantee, require at any time the corporate guarantor to provide reports of its financial condition. If a corporate guarantor can no longer assure the funds of the written guarantee, the owner or operator must submit to the department proof of alternative financial assurance within 90-days of written notification by the department.

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

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

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

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

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

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

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

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

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

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

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

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

567—102.411(455D) Beneficial use of waste tires.

102.411(1) *Role of the department.* In order to ensure that proposed uses of whole or processed waste tires do not pose a threat to the environment or to the public health, welfare, and safety, the department shall have the authority to determine if a proposed use is beneficial and shall have the authority to approve or deny applications if such a benefit is not evident. Proposed beneficial uses in which the primary purpose of the project is as a land disposal mechanism shall not be approved.

102.411(2) *Beneficial uses for whole waste tires.* The following applications shall be considered acceptable beneficial uses for whole waste tires:

a. Tire swings, sandboxes, or other equipment for child play areas on residential lots or at schools, care centers, and recreational areas;

b. Dock bumpers at vehicle loading/unloading docks or marine docks;

c. Crash barriers at racetracks;

d. Agricultural uses to hold down covers over hay, silage, and other agricultural commodities. When not in use, the tires should be neatly stacked;

102.411(3) *Required notifications and approval for whole tire uses.* Prior to the installation or placement of waste tires for a beneficial use as allowed in subrule 102.411(2), the owner or operator of the site of end use shall properly notify or seek approval from the department for the proposed beneficial use under the following circumstances. These circumstances apply to the total combined amount of tire material that already is, or is intended to be, used at the site:

a. For applications of less than 250 whole waste tires, notification to the department shall not be required, subject to the end user's compliance with all requirements of this rule.

b. For applications of 250 to 500 whole waste tires, the department shall be notified in writing no less than 30 days prior to the construction or placement of waste tires for a beneficial use, with the following information provided:

(1) The name, address, and telephone number of the owner, operator, or individual responsible for the beneficial use application at the site of end use;

(2) The address of the site of beneficial end use;

(3) The estimated total number of waste tires to be used;

(4) A description of the beneficial use application;

(5) A project time line, including proposed project start and end dates; and

(6) A statement that explains how the site owner shall properly dispose of such waste tires in the event that the beneficial use is discontinued or dismantled.

c. For applications of more than 500 waste tires, approval by the department shall be obtained prior to any such applications. Approval requests shall be made to the department in writing and shall contain all information as requested in paragraph 102.411(3)“b,” as well as a scaled plan of the site of end use with areas noted where whole waste tires are to be placed, including locations of the site of end use property lines and the location of any structures within 300 feet of the site of end use.

102.411(4) *Prevention of public health risks for whole tire uses.* All beneficial uses of whole waste tires as approved in this rule shall have incorporated into their design and construction measures to prevent the retention and stagnation of water, in the event that such conditions are likely to exist. These measures shall include, at a minimum, the piercing or drilling of holes in whole waste tires to allow for water drainage. Such measures shall be designed to minimize risks to public health and safety caused by the breeding of disease-carrying insects and rodents.

102.411(5) *Beneficial uses for processed waste tires.* This subrule establishes acceptable beneficial uses for tires that have been processed and required design criteria that shall be observed in the placement of processed tires at the site of end use. The following applications shall be considered acceptable beneficial uses for processed waste tires:

a. On-site wastewater treatment and disposal system construction, to include use of processed tires in lateral trenches and as fill to cover distribution pipes under the following conditions:

(1) The on-site wastewater treatment and disposal system is constructed and permitted according to the requirements of 567—Chapter 69;

(2) Processed tires used in the system have a minimum dimension of 1 inch on any one side and a maximum dimension of 3 inches on any one side; and

(3) The administrative authority responsible for issuance of the permit approves the beneficial use. The authority shall have the sole discretion to deny use of processed tires in system construction based on any engineering or design principle concerns.

b. Lightweight fill in public roads, public road embankment construction, and other public civil engineering applications if all of the following conditions are met:

(1) The tire pieces are of uniform composition and sizing;

(2) The tire pieces are not mixed with other solid wastes, vegetation, composted materials, or other processed tire products, including separated tire bead wire, steel cording or nylon fibers;

(3) The tires are not placed in direct contact with surface water or groundwater;

(4) The processed tires are isolated from overburden materials by a protective membrane or liner to prevent intrusion and settling of overburden; and

(5) An Iowa-licensed professional engineer designs and supervises the incorporation of processed tires.

c. Structural foundation drainage material used in a project as approved through a local building permit;

d. A bulking agent for composting operations at permitted composting facilities, with processed tire pieces no larger than 3 inches on any one side; and

e. Leachate drainage medium at a permitted sanitary landfill, provided that the medium meets engineering and design requirements for the landfill’s operating permit, pursuant to 567—Chapter 101, Divisions I through IV.

f. Agricultural uses to hold down covers over hay, silage, and other agricultural commodities;

g. Traffic control devices for use in public roadway construction projects;

h. Portable surfaces manufactured from tire sidewalls or tread;

i. Tire sidewalls used for underturf water conservation and turf growth enhancement systems at golf courses.

102.411(6) *Requests for approval of other beneficial use applications.* The department shall have the authority to approve or deny requests for beneficial use applications for waste tires and waste tire material not specifically addressed within this rule. Requests for such use determinations shall be made to the department on a form prescribed by the department. The department may request project descriptions and supporting scientific and engineering data to determine if a request for a beneficial use determination is warranted. The department shall have the sole authority to deny a beneficial use request if the department determines that any one of the following conditions exists:

a. The requested beneficial use application poses a risk to the environment or to the public health, welfare, and safety;

b. The requested beneficial use application is determined to have the primary purpose as a land disposal mechanism, and any beneficial use would be incidental in nature; or

c. The requested beneficial use application would not be in accordance with other applicable federal, state, or local laws, regulations, and ordinances.

102.411(7) *Storage of waste tires prior to beneficial use.* Waste tires to be used for a beneficial use may be stored at the site of end use, subject to the following requirements:

a. Such waste tire materials shall be stored for no longer than 60 days prior to the date of application, except for whole waste tires for agricultural uses as specified in paragraph 102.411(2)“*d.*”

b. All storage of such waste tire materials shall be conducted in accordance with the uniform fire code and the requirements of subrule 102.409(3) and 102.409(4)“*c.*” as applicable.

c. Any storage of waste tires associated with a proposed beneficial reuse project at a site of end use for longer than 60 days without implementation of completion of a beneficial reuse project shall be subject to the waste tire storage permitting requirements as contained in rule 567—102.407(455D).

567—102.412(455D) Waivers. A request for a waiver to this division shall be submitted in writing pursuant to 561—Chapter 10. Some provisions of this division are minimum statutory standards required by Iowa Code sections 455D.11, 455D.11I, and waivers to such provisions shall not be granted.

These rules are intended to implement Iowa Code sections 455D.11 455D.11A, 455D.11B and 455D.11I.

567—102.413 to 102.499 Reserved.