



Ohio Administrative Code

Rule 3745-580-23 Financial assurance for scrap tire transporter closure.

Effective: June 30, 2023

(A) This rule is applicable to a scrap tire transportation business that is issued a registration certificate pursuant to rule 3745-580-103 of the Administrative Code.

(B) General requirements.

(1) For the purposes of this rule, "owner or operator" means the owner, operator, registrant, or person responsible for closure of the scrap tire transportation business.

(2) The owner or operator shall execute and fund a financial assurance instrument in the amount specified in section 3734.74 of the Revised Code and that meets the requirements of paragraph (E) of this rule.

(3) The owner or operator shall maintain financial assurance for closure throughout the operating life of the scrap tire transportation business and may be released only in accordance with paragraph (J) of this rule.

(C) [Reserved.]

(D) [Reserved.]

(E) The owner or operator shall select a closure financial assurance mechanism from the list of mechanisms specified in paragraphs (F) to (I) of this rule provided the owner or operator satisfies the criteria for use of that mechanism. The owner or operator of a scrap tire transportation business that also owns or operates a solid waste facility may select a closure financial assurance mechanism in accordance with Chapter 3745-27 or Chapter 3745-503 of the Administrative Code, as applicable, for both the solid waste facility and the scrap tire transportation business.

(F) Closure trust fund.



- (1) The owner or operator may satisfy the requirements of this rule by establishing a closure trust fund that conforms to the requirements of this paragraph, by sending an originally signed duplicate of the trust agreement to the director prior to issuance of a registration certificate. The trustee shall be an entity that has the authority to act as a trustee and which trust operations are regulated and examined by a federal or state agency.
- (2) The wording of the trust agreement shall be identical to the wording specified in paragraph (A)(1) of rule 3745-580-24 of the Administrative Code on forms prescribed by the director, and the trust agreement shall be accompanied by a formal certification of acknowledgment.
- (3) A closure trust fund shall be executed and funded in the amount specified in section 3734.74 of the Revised Code at the time the fund is established.
- (4) If the value of the trust fund is less than the the amount specified in section 3734.74 of the Revised Code at any time, the owner or operator shall, not later than sixty days after the value of the trust fund is below the amount specified in section 3734.74 of the Revised Code, either deposit a sufficient amount into the trust fund so that the value is not less than the amount specified in section 3734.74 of the Revised Code, or obtain alternative financial assurance using one of the mechanisms specified in this rule.
- (5) The director shall instruct the trustee to release to the owner or operator such funds as the director specifies in writing, after receiving one of the following requests from the owner or operator for a release of funds:
 - (a) A written request to the director for the release of the amount in excess of the amount specified in section 3734.74 of the Revised Code.
 - (b) A written request to the director for release of the amount in the trust fund as a result of such substitution, if the owner or operator substitutes alternative financial assurance from the list of mechanisms specified in this rule.
- (6) Reimbursement for scrap tire transporter closure. After beginning closure, the owner or operator,



or any other person authorized by the owner, operator, or director to perform closure, may request reimbursement for closure expenditures by submitting itemized bills to the director. After receiving itemized bills for closure activities, the director shall determine whether the closure expenditures are in accordance with applicable rules, or are otherwise justified, and if so, will instruct the trustee to make reimbursement in such amounts as the director specifies in writing. If the director determines that the cost of scrap tire transporter closure will be greater than the value of the trust fund, the director may withhold reimbursement of such amounts as deemed prudent until the director determines, in accordance with paragraph (J) of this rule, that the owner or operator is no longer required to maintain financial assurance for scrap tire transporter closure.

(7) The director will agree to termination of the trust fund when one of the following occurs:

(a) The owner or operator substitutes alternative financial assurance for closure as specified in paragraph (F)(4) of this rule.

(b) The director notifies the owner or operator, in accordance with paragraph (J) of this rule that the owner or operator is no longer required by this rule to maintain financial assurance for scrap tire transporter closure.

(G) Surety bond guaranteeing payment into scrap tire management fund.

(1) The owner or operator may satisfy the requirements of this rule by obtaining a surety bond that conforms to the requirements of this paragraph and by delivering the originally signed bond to the director by certified mail or any other form of mail accompanied by a receipt prior to issuance of the registration certificate and by submitting a copy of the bond into the operating record, if applicable. The surety company issuing the bond shall at a minimum be among those listed as acceptable sureties on federal bonds in the most recent listing of approved sureties as published by the U.S. department of the treasury.

(2) The wording of the surety bond shall be identical to the wording specified in paragraph (B) of rule 3745-580-24 of the Administrative Code on forms prescribed by the director.

(3) Under the terms of the surety bond all payments made thereunder will be deposited by the surety



directly into the scrap tire management fund established by division (G) of section 3734.82 of the Revised Code and in accordance with instructions from the director.

(4) The bond shall guarantee that the surety will become liable on the bond obligation unless the owner or operator provides alternative financial assurance as specified in this rule, and obtains the director's written approval of the alternative financial assurance provided, not later than ninety days after both the owner or operator and the director receive notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety shall become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond shall be in the amount specified in section 3734.74 of the Revised Code.

(7) Under the terms of the bond, the bond shall remain in force unless the surety sends written notice of cancellation by certified mail or any other form of mail accompanied by a receipt to the owner or operator and to the director. Cancellation cannot occur, however, during the one hundred twenty day period beginning on the first day that both the owner or operator and the director have received the notice of cancellation, as evidenced by the return receipts.

(8) The owner or operator may cancel the bond if the director has given prior written consent. The director will provide such written consent to the surety bond company when one of the following occurs:

(a) The owner or operator substitutes alternative financial assurance for closure of a scrap tire transporter as specified in this rule.

(b) The director notifies the owner or operator, in accordance with paragraph (J) of this rule, that the owner or operator is no longer required to maintain financial assurance for the scrap tire transporter.

(H) Surety bond guaranteeing performance of scrap tire transporter closure.



- (1) The owner or operator may satisfy the requirements of this rule by obtaining a surety bond that conforms to the requirements of this paragraph and by delivering the originally signed bond to the director prior to issuance of the registration certificate. The surety company issuing the bond shall at a minimum be among those listed as acceptable sureties on federal bonds in the most recent listing of approved sureties as published by the U.S. department of the treasury.
- (2) The wording of the surety bond shall be identical to the wording specified in paragraph (C) of rule 3745-580-24 of the Administrative Code on forms prescribed by the director.
- (3) Under the terms of the surety bond, all payments made thereunder will be deposited by the surety directly into the scrap tire management fund established by division (G) of section 3734.82 of the Revised Code and in accordance with instructions from the director.
- (4) The bond shall guarantee that the surety will become liable on the bond obligation unless the owner or operator provides alternative financial assurance as specified in this rule, and obtains the director's written approval of the alternate financial assurance provided not later than ninety days after both the owner or operator and the director receive notice of cancellation of the bond from the surety.
- (5) Performing activities. 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. Following a determination by the director that the owner or operator has failed to perform closure activities in accordance with applicable rules, the surety shall perform closure in accordance with applicable rules or deposit the amount of the penal sum into the scrap tire management fund established by division (G) of section 3734.82 of the Revised Code.
- (6) The penal sum of the bond shall be in the amount specified in section 3734.74 of the Revised Code.
- (7) Under the terms of the bond, the bond shall remain in force unless the surety sends written notice of cancellation by certified mail or any other form of mail accompanied by a receipt to the owner or operator and to the director. Cancellation cannot occur, however, during the one hundred twenty day period beginning on the first day that both the owner or operator and the director have received the



notice of cancellation as evidenced by the return receipts.

(8) The owner or operator may cancel the bond if the director has given prior written consent. The director will provide such written consent to the surety bond company when one of the following occurs:

(a) The owner or operator substitutes alternative financial assurance for closure of a scrap tire transporter as specified in this rule.

(b) The director notifies the owner or operator, in accordance with paragraph (J) of this rule, that the owner or operator is no longer required by this rule to maintain financial assurance for scrap tire transporter closure.

(9) The surety shall not be liable for deficiencies in the completion of scrap tire transporter closure by the owner or operator after the owner or operator has been notified by the director, in accordance with this rule, that the owner or operator is no longer required to maintain financial assurance for scrap tire transporter closure.

(I) Closure letter of credit.

(1) The owner or operator may satisfy the requirements of this rule by obtaining an irrevocable standby letter of credit ("letter of credit") that conforms to the requirements of this paragraph and by having the originally signed letter of credit delivered to the director by certified mail or any other form of mail accompanied by a receipt prior to issuance of the registration certificate. The issuing institution shall 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.

(2) The wording of the letter of credit shall be identical to the wording specified in paragraph (D) of rule 3745-580-24 of the Administrative Code on forms prescribed by the director.

(3) Under the terms of the letter of credit, all amounts paid pursuant to a draft by the director shall be deposited promptly and directly into the scrap tire management fund established by division (G) of section 3734.82 of the Revised Code and in accordance with instructions from the director.



(4) The letter of credit shall be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the names and addresses of the scrap tire transporter business and the owner and the operator and the amount of funds assured for scrap tire transporter closure by the letter of credit.

(5) The letter of credit shall be irrevocable and issued for a period of at least one year. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one year unless, not later than one hundred twenty days prior to the current expiration date, the issuing institution notifies both the owner and operator and the director by certified mail or any other form of mail accompanied by a receipt of a decision not to extend the expiration date. Under the terms of the letter of credit, the one hundred twenty day period shall begin on the day when both the owner or operator and the director have received the notice, as evidenced by the return receipts.

(6) The letter of credit shall be issued in the amount specified in section 3734.74 of the Revised Code.

(7) Under the terms of the letter of credit, the director may draw on the letter of credit following a determination that the owner or operator has failed to do the following:

(a) Perform scrap tire transporter closure in accordance with applicable rules.

(b) Provide alternative financial assurance as specified in this rule and obtain written approval of such alternative financial assurance from the director not later than ninety days after the owner and operator and the director have received notice from the issuing institution that it will not extend the letter of credit beyond the current expiration date, the director shall draw on the letter of credit. The director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the thirty days of any such extension the director shall draw on the letter of credit if the owner or operator has failed to provide alternative financial assurance as specified in this rule and has failed to obtain written approval of such alternative financial assurance from the director.

(8) The director shall return the original letter of credit to the issuing institution for termination when either of the following occur:



(a) The owner or operator substitutes alternative financial assurance for scrap tire transporter closure as specified in this rule.

(b) The director notifies the owner or operator, in accordance with paragraph (J) of this rule, that the owner or operator is no longer required to maintain financial assurance for scrap tire transporter closure.

(J) Release of the owner or operator from the requirements of this rule. The director shall notify the owner or operator in writing that the owner or operator is no longer required by this rule to maintain financial assurance for scrap tire transporter closure, unless the director has reason to believe that closure has not been completed in accordance with applicable rules.