

1 Pollution Control Agency

2

3 Adopted Permanent Rules Relating to Waste Tire Dump Abatement

4

5 Rules as Adopted

6 7035.8000 SCOPE.

7 Parts 7035.8000 to 7035.8080 establish the procedures that  
8 the agency shall follow in moving to abate tire dumps, the  
9 procedures that a responsible tire collector shall follow in  
10 abating a tire dump pursuant to agency request, and the  
11 technical standards that a responsible tire collector must meet  
12 during the abatement process.

13 7035.8010 DEFINITIONS.

14 Subpart 1. Applicability. For the purposes of parts  
15 7035.8000 to 7035.8080, the terms in subparts 2 to 22 have the  
16 meanings given them.

17 Subp. 2. Abate or abatement. "Abate" or "abatement" means  
18 processing and removing waste tires in a manner accepted by the  
19 agency.

20 Subp. 3. Abatement increment. "Abatement increment" means  
21 period of time, not greater than six months and not less than  
22 one month, as specified in an abatement plan, during which a  
23 specified number of waste tires will be removed from the tire  
24 dump and processed.

25 Subp. 4. Agency. "Agency" means the Minnesota Pollution  
26 Control Agency.

27 Subp. 5. Director. "Director" means the executive  
28 director of the Minnesota Pollution Control Agency.

29 Subp. 6. Flood plain. "Flood plain" means any land area  
30 that is subject to a one percent or greater chance of flooding  
31 in any given year from any source.

32 Subp. 7. Operator. "Operator" means the person  
33 responsible for the overall operation of the tire dump. A tire  
34 dump operator is a tire collector as defined in Minnesota  
35 Statutes, section 115A.90, subdivision 8.

1       Subp. 8. Owner. "Owner" means a person who owns, in whole  
2 or in part, the waste tires located in a tire dump, or the land  
3 on which the tire dump is located. As used in parts 7035.8000  
4 to 7035.8080, "owner" includes one who holds an interest in the  
5 property on which the tire dump is located, as in the case of a  
6 lessee. An owner is a tire collector as defined in Minnesota  
7 Statutes, section 115A.90, subdivision 8.

8       Subp. 9. Person. "Person" has the meaning given in  
9 Minnesota Statutes, section 115A.90, subdivision 5.

10       Subp. 10. Processing. "Processing" has the meaning given  
11 in Minnesota Statutes, section 115A.90, subdivision 6.

12       Subp. 11. Ravine. "Ravine" means a deep, narrow cleft or  
13 gorge in the earth's surface. A ravine cannot be smoothed out  
14 by ordinary tillage.

15       Subp. 12. Residuals from processing. "Residuals from  
16 processing" means the unusable material resulting from any  
17 chemical or physical processing of waste tires.

18       Subp. 13. Responsible tire collector. "Responsible tire  
19 collector" means a person who is the recipient of the abatement  
20 request. A responsible tire collector is an owner or operator  
21 of a tire dump, as defined in this part.

22       Subp. 14. Shoreland. "Shoreland" means land located  
23 within 1,000 feet from the normal high water mark of a lake,  
24 pond, or flowage, or land within 300 feet of a river or stream,  
25 or a flood plain as established by ordinance.

26       Subp. 15. Sinkhole. "Sinkhole" means a closed depression  
27 formed by subsidence of the underlying bedrock.

28       Subp. 16. Tire. "Tire" has the meaning given in Minnesota  
29 Statutes, section 115A.90, subdivision 7.

30       Subp. 17. Tire collector. "Tire collector" has the  
31 meaning given in Minnesota Statutes, section 115A.90,  
32 subdivision 8.

33       Subp. 18. Tire-derived products. "Tire-derived products"  
34 means usable materials produced from the chemical or physical  
35 processing of a waste tire.

36       Subp. 19. Tire dump. "Tire dump" has the meaning given in

1 Minnesota Statutes, section 115A.90, subdivision 9.

2 Subp. 20. Tire processor. "Tire processor" has the  
3 meaning given in Minnesota Statutes, section 115A.90,  
4 subdivision 10.

5 Subp. 21. Waste tire. "Waste tire" has the meaning given  
6 in Minnesota Statutes, section 115A.90, subdivision 11.

7 Subp. 22. Wetland. "Wetland" means any area that is  
8 covered by standing water during any portion of a year. As used  
9 in this part, "wetland" includes but is not limited to wetlands  
10 as defined in Classification of Wetlands and Deep Water Habitats  
11 of the United States, 1979. This publication was issued by the  
12 United States Department of the Interior, Fish and Wildlife  
13 Service, Washington, D.C. 20402. This publication is available  
14 at the Minnesota State Government Law Library, Ford Building,  
15 117 University Avenue, Saint Paul, Minnesota. This publication  
16 is incorporated into this definition by reference and is not  
17 subject to frequent change.

18 7035.8020 ABATEMENT PROCEDURES.

19 Subpart 1. Scope. Subparts 2, 3, and 4 describe the  
20 criteria the agency shall use in deciding which tire dumps to  
21 abate first, the procedures that the agency shall follow in  
22 abating tire dumps, and the actions that responsible tire  
23 collectors must take to comply with an agency request to abate.

24 Subp. 2. Abatement priorities. The agency shall issue a  
25 request for abatement action to tire collectors responsible for  
26 tire dumps that meet the following priority criteria:

27 A. First priority: tire dumps with over 1,000,000  
28 waste tires. Tire dumps with over 1,000,000 waste tires shall  
29 be ranked based on the priority criteria in items B and C.

30 B. Second priority: tire dumps posing fire hazards.  
31 In ranking tire dumps that are fire hazards, the agency shall  
32 consider the number of waste tires in the tire dump; the  
33 proximity of the tire dump to population concentrations; the  
34 proximity of the tire dump to natural resources that would be  
35 affected by a fire at the tire dump; and the characteristics of

1 the tire dump that might make it susceptible to fire, including  
2 but not limited to the absence of fire lanes, the lack of  
3 emergency equipment, the presence of easily combustible  
4 materials, and the lack of site access control.

5 C. Third priority: tire dumps in densely populated  
6 areas. In ranking tire dumps located in densely populated  
7 areas, the agency shall consider the population concentration  
8 within five miles of the tire dump; the number of waste tires in  
9 the tire dump; the hazardous characteristics of the tire dump,  
10 including but not limited to its susceptibility to fire or to  
11 mosquito infestation; and whether the tire dump is visible from  
12 any public way.

13 D. Fourth priority: remaining tire dumps. For tire  
14 dumps that do not meet the priority criteria in subpart 3, items  
15 A to C, the agency shall consider the number of waste tires  
16 located at the tire dump; the hazardous characteristics of the  
17 tire dump, including but not limited to its susceptibility to  
18 fire or mosquito infestation; and the population and natural  
19 resources that might be affected by the presence of the tire  
20 dump.

21 Subp. 3. Request for abatement action. The agency shall  
22 issue a request for abatement action to all responsible tire  
23 collectors. A request for abatement action shall be in writing,  
24 specify the action that must be taken to comply, the time  
25 allowed for response, the reasons for requesting the action, and  
26 the actions that the agency will take if the requested action is  
27 not taken in the requested time.

28 Subp. 4. Requested action. The request for abatement  
29 action shall require that the responsible tire collector or  
30 collectors submit to the director an abatement plan meeting the  
31 criteria established in part 7035.8030. The request for  
32 abatement action shall require that the responsible tire  
33 collector or collectors agree to implement the abatement plan by  
34 entering into a stipulation agreement with the agency.

35 7035.8030 CONTENTS OF ABATEMENT PLAN.

1           Subpart 1. Goal. The abatement of a tire dump subject to  
2 an agency abatement action shall be accomplished through the  
3 processing and removal of the waste tires present in the tire  
4 dump. Abatement action must be in accordance with a plan that  
5 meets the criteria in this part. If approved by the director, a  
6 plan that meets the criteria in this part shall be incorporated  
7 into a stipulation agreement signed by the responsible tire  
8 collector or collectors and the agency.

9           Subp. 2. Processing on-site. If the responsible tire  
10 collector elects to process the waste tires on the tire dump  
11 site, the following information must be included in the  
12 abatement plan submitted to the director in compliance with the  
13 request for abatement action:

14           A. A description of the processing techniques.

15           B. A description of the equipment that will be used  
16 on the site to process and remove the waste tires. The function  
17 of each piece of equipment should be specifically noted.

18           C. The name, address, and telephone number of the  
19 ultimate user of the tire-derived products produced from the  
20 processing of the waste tires constituting the tire dump.

21           D. A description of how any residuals from processing  
22 the waste tires will be disposed.

23           E. A time schedule for removal and processing of the  
24 waste tires constituting the tire dump. Abatement of the tire  
25 dump must be completed within five years of the execution of the  
26 stipulation agreement incorporating the abatement plan.

27 Abatement increments must be established.

28           F. A time schedule for bringing the tire dump into  
29 compliance with the technical and operational standards in parts  
30 7035.8050 to 7035.8060. The tire dump must be in compliance  
31 with all technical and operational standards within six months,  
32 unless otherwise agreed to in the stipulation agreement  
33 incorporating the abatement plan. An emergency preparedness  
34 manual meeting the standards in part 7035.8060, subpart 8, must  
35 be submitted to the director as part of the abatement plan.

36           G. A description of how records on the number of

1 waste tires processed and removed will be maintained.

2 H. If the responsible tire collector will seek  
3 reimbursement under part 7035.8070, an estimate of the net cost  
4 of processing the waste tires using the most cost-effective  
5 processing alternative. This estimate must be supported through  
6 submission of documentation of the net cost of processing the  
7 waste tires.

8 Subp. 3. Processing off-site. If the responsible tire  
9 collector elects to remove the waste tires to another location  
10 for processing, the following information must be included in  
11 the abatement plan submitted to the director in compliance with  
12 the request for abatement action.

13 A. A description of the equipment that will be used  
14 to pick up and transport the waste tires to the tire processor.

15 B. If the responsible tire collector will contract  
16 with another person or firm for the transportation of the waste  
17 tires, the name, address, and telephone number of that person or  
18 firm.

19 C. The name, address, and telephone number of the  
20 facility at which the waste tires will be processed, and a  
21 description of the processing techniques employed by that tire  
22 processor.

23 D. A time schedule for the removal of the waste tires  
24 constituting the tire dump. The abatement of the tire dump must  
25 be completed within five years of the execution of the  
26 stipulation agreement incorporating the abatement plan.  
27 Abatement increments must be established.

28 E. A time schedule for bringing the tire dump into  
29 compliance with the technical and operational standards in parts  
30 7035.8050 to 7035.8060. The tire dump must be in compliance  
31 with all technical standards within six months, unless otherwise  
32 agreed to in the stipulation agreement incorporating the  
33 abatement plan. An emergency preparedness manual meeting the  
34 standards in part 7035.8060, subpart 8, must be submitted to the  
35 director as part of the abatement plan.

36 F. A description of how records on the number of

1 waste tires removed will be maintained.

2 G. If the responsible tire collector will seek  
3 reimbursement under part 7035.8070, an estimate of the net cost  
4 of processing the waste tires using the most cost-effective  
5 processing alternative. This estimate must be supported through  
6 submission of documentation of the net cost of processing the  
7 waste tires.

8 Subp. 4. Permitting during abatement. If the responsible  
9 tire collector wishes to obtain an agency permit for the site  
10 that is the subject of the abatement action, the responsible  
11 tire collector must notify the director of this intent at the  
12 time the abatement plan is submitted, and agree to develop a  
13 plan for bringing the site into compliance with the technical  
14 rules for waste tire storage, transfer, or processing facilities  
15 once rules governing these facilities are in place.

16 Subp. 5. New waste tires. If the responsible tire  
17 collector wants to continue to receive new waste tires during  
18 the time the tire dump is being abated, the responsible tire  
19 collector must notify the director of this intent at the time  
20 the abatement plan is submitted, and agree to develop a plan for  
21 processing and removal of the new waste tires.

22 7035.8040 INADEQUATE RESPONSE TO A REQUEST FOR ABATEMENT ACTION.

23 Subpart 1. Inadequate response. The agency shall  
24 determine if a responsible tire collector has failed to make an  
25 adequate response to a request for abatement action. ~~The agency~~  
26 ~~may find that response has been inadequate if~~ The following  
27 constitute grounds for the agency to find that a response has  
28 been inadequate:

29 A. the responsible tire collector has not responded  
30 to the request for abatement action within the time period  
31 specified in the request for abatement action;

32 B. the responsible tire collector has failed to  
33 submit an abatement plan that meets the criteria in part  
34 7035.8030;

35 C. the responsible tire collector has failed to sign

1 a stipulation agreement incorporating the abatement plan  
2 approved by the director; or

3 D. the responsible tire collector has failed to  
4 comply with a term or condition of the stipulation agreement  
5 incorporating the abatement plan.

6 Subp. 2. Abatement order. ~~If the agency determines~~ A  
7 finding that a responsible tire collector has failed to make an  
8 adequate response to a request for abatement ~~action~~, constitutes  
9 grounds for the agency may to issue a tire dump abatement order  
10 to the responsible tire collector. A If the agency determines  
11 that agency abatement is required, the tire dump abatement order  
12 may shall provide for entering the property where the tire dump  
13 is located, taking the waste tires into public custody, and  
14 arranging for their processing and removal.

15 7035.8050 TECHNICAL STANDARDS.

16 Subpart 1. Scope. During the time a tire dump is being  
17 abated according to an abatement plan approved by the director,  
18 the responsible tire collector shall operate and maintain the  
19 tire dump in compliance with the following standards.

20 Subp. 2. Indoor storage. Waste tires stored indoors shall  
21 be stored under conditions that meet or exceed those in The  
22 Standard for Storage of Rubber Tires, NFPA 231D-1980 edition,  
23 adopted by the National Fire Protection Association, San Diego,  
24 California. This publication is available at the Minnesota  
25 State Government Law Library, Ford Building, 117 University  
26 Avenue, Saint Paul, Minnesota; the Office of Public Safety, Fire  
27 Marshal Division; or any local fire department. This  
28 publication is incorporated by reference and is not subject to  
29 frequent change.

30 Subp. 3. Location of waste tire piles. No waste tires  
31 shall be stored in any area where they may be subjected to  
32 immersion in water, including but not limited to flood plains,  
33 wetlands, shorelands, sinkholes, or ravines.

34 Subp. 4. Dimensions of waste tire piles. No individual  
35 waste tire pile shall have an area greater than 10,000 square



1 feet or a vertical height greater than 20 feet. A 50-foot fire  
2 lane shall be placed around the perimeter of each waste tire  
3 pile. This fire lane shall be maintained free of rubbish,  
4 equipment, and vegetation at all times.

5 7035.8060 OPERATIONAL STANDARDS.

6 Subpart 1. Scope. During the time a tire dump is being  
7 abated pursuant to an abatement plan approved by the director,  
8 the tire dump must be operated in compliance with the following  
9 standards.

10 Subp. 2. Burning. No operations involving the use of open  
11 flames, blow torches, or highly flammable substances shall be  
12 conducted within ten feet of a waste tire pile.

13 Subp. 3. Emergency equipment. Equipment for the control  
14 of accidental fires shall be provided and maintained at the tire  
15 dump.

16 Subp. 4. Emergency communications. Communication  
17 equipment shall be provided and maintained at the tire dump.  
18 Arrangements to acquire fire protection services for the tire  
19 dump shall be made through agreement with local fire protection  
20 authorities.

21 Subp. 5. Access. An approach and access road to the tire  
22 dump shall be maintained passable for any vehicle at all times.  
23 Access to the tire dump shall be strictly controlled through use  
24 of fences and gates.

25 Subp. 6. Vegetation. The tire dump shall be maintained  
26 free of grass, underbrush, and other potentially flammable  
27 vegetation at all times.

28 Subp. 7. Storage limitation. Only waste tires or  
29 tire-derived products may be stored at the tire dump.

30 Subp. 8. Emergency manual. The operator of the tire dump  
31 shall prepare and maintain at the tire dump site an emergency  
32 preparedness manual containing the following elements:

33 A. a list of names and numbers of persons to be  
34 contacted in the event of a fire, flood, or other emergency  
35 involving the tire dump;

1 B. a list of the emergency response equipment present  
2 at the tire dump, its location, and how it should be used in the  
3 event of a fire or other emergency; and

4 C. a description of the procedures that should be  
5 followed in the event of a fire at the tire dump, including  
6 procedures to contain and dispose of the oily material generated  
7 by the combustion of large numbers of tires.

8 The procedures in the emergency preparedness manual shall  
9 be followed in the event of an emergency at the tire dump. The  
10 emergency preparedness manual shall be updated once a year, upon  
11 changes in operations at the tire dump, or if required by the  
12 director.

13 Subp. 9. Emergency notification and reports. The operator  
14 of the tire dump shall immediately notify the director in the  
15 event of a fire or other emergency at the tire dump with  
16 potential off-site impacts. Within two weeks of any emergency  
17 involving potential off-site impact, the operator of the tire  
18 dump shall submit to the director a report on the emergency.  
19 This report shall set out the origins of the emergency, the  
20 actions that were taken to deal with the emergency, the results  
21 of the actions that were taken, and an analysis of the success  
22 or failure of the actions.

23 Subp. 10. Operational record. The operator of the tire  
24 dump shall maintain records of the number of waste tires  
25 received at the tire dump, stored at the tire dump, and shipped  
26 from the tire dump. Records shall also be kept of the amount of  
27 tire-derived products received, stored, or shipped from the tire  
28 dump. At the completion of an abatement increment, the  
29 responsible tire collector shall submit to the director a record  
30 of the approximate number of waste tires remaining in the tire  
31 dump; the amount of tire-derived products stored at the tire  
32 dump; and the number of waste tires or amount of tire-derived  
33 products received at the tire dump and shipped from the tire  
34 dump during the abatement increment. For waste tires and  
35 tire-derived products shipped to another location, the date and  
36 the amount shipped must be included.

APPROVED IN THE  
REVISOR OF STATUTES  
OFFICE BY:

1 Subp. 11. Inspection. At the completion of each abatement  
2 increment, the responsible tire collector shall notify the  
3 director so that an inspection of the tire dump may be conducted  
4 to certify the completion of the required abatement.

5 7035.8070 REIMBURSEMENT.

6 Subpart 1. Scope. The agency ~~may~~ shall reimburse a  
7 responsible tire collector for the cost of abating the tire dump  
8 according to the criteria and limits in this part and as set out  
9 in the stipulation agreement incorporating the abatement plan.

10 Subp. 2. Eligibility of responsible tire collector. Only  
11 those tire collectors who notified the agency under part  
12 7035.8030 [Emergency], who are recipients of an agency request  
13 to abate a tire dump, and who have entered into a stipulation  
14 agreement incorporating an abatement plan may request the agency  
15 for abatement cost reimbursement.

16 Subp. 3. Eligible costs. Only the cost of abatement of  
17 waste tires collected before November 21, 1985, is eligible for  
18 reimbursement.

19 Subp. 4. Reimbursement rate. A reimbursement rate shall  
20 be established in the stipulation agreement incorporating the  
21 abatement plan. The director shall establish the reimbursement  
22 rate. The reimbursement rate shall be based on the most  
23 cost-effective means of abating the tire dump, considering all  
24 alternatives available to the responsible tire collector, and  
25 the amount of money available to the agency for tire dump  
26 abatement. In calculating the reimbursement rate for waste  
27 tires that do not exceed an 18-inch rim diameter, 35-inch  
28 outside diameter, and a 14-inch tire width, the director shall  
29 use the following formula to determine which abatement  
30 alternative is the most cost effective.

$$31 \quad R = (M \times \$0.125) \quad + \text{ or } - \text{ PC}$$

$$32 \quad \quad \quad (\text{transport cost}) \quad \quad \quad (\text{processing cost})$$

33 Where R is the potential reimbursement rate in dollars per ton;  
34 M is the miles needed to transport the waste tires to the  
35 processing facility; the figure \$0.125 represents the cost of

1 transporting a ton of waste tires one mile; and PC is the net  
2 dollar cost per ton to the responsible tire collector of  
3 processing these waste tires. If the responsible tire  
4 ~~collectors~~ collector's processing revenues exceed processing  
5 costs, ~~for-example~~ in other words, there is no net cost but  
6 instead a net profit, the amount of revenue shall be subtracted  
7 from the transportation cost portion of the formula. PC may  
8 shall not exceed \$66 per ton.

9 The reimbursement rate for waste tires exceeding an 18-inch  
10 rim diameter, a 35-inch outside diameter, or a 14-inch tire  
11 width, shall be established by the director on a case-by-case  
12 basis. If the responsible tire collector seeks reimbursement  
13 for the cost of abating these waste tires, the responsible tire  
14 collector must submit information on the most cost-effective  
15 method of transporting (if the waste tires are to be processed  
16 off-site) and processing these waste tires when submitting the  
17 information required in part 7035.8030, subpart 2, item H, and  
18 subpart 3, item G. The director will choose a reimbursement  
19 rate that reflects the most cost-effective method of  
20 transporting and processing these waste tires.

21 Subp. 5. Reimbursement total. The director shall  
22 establish the total amount of money that will be available for  
23 reimbursement of all eligible abatement costs incurred at any  
24 site. This total shall be based on the reimbursement rate, the  
25 total amount of money available to the agency for abatement of  
26 tire dumps, and the spending priorities established by the  
27 legislature in Minnesota Statutes, section 115A.912, subdivision  
28 2. This total shall be incorporated into the stipulation  
29 agreement incorporating the abatement plan. To change the  
30 total, an amendment of the stipulation agreement shall be  
31 required. The agency shall not consider or approve requests for  
32 reimbursement for more than ten percent above the dollar amount  
33 established in the original stipulation agreement.

34 7035.8080 REIMBURSEMENT DISBURSEMENT.

35 Subpart 1. Request for disbursement. After the completion

1 of an abatement increment, the responsible tire collector may  
2 request the director for reimbursement of the costs incurred  
3 during that abatement increment.

4 Subp. 2. Findings. Before any money is disbursed as  
5 reimbursement for the cost of abatement, the director shall make  
6 the following determinations:

7 A. the abatement increment for which reimbursement is  
8 sought has been certified as complete;

9 B. the abatement cost for which reimbursement is  
10 sought was actually incurred; and

11 C. the responsible tire collector is in compliance  
12 with all terms and conditions of the stipulation agreement.

13 Subp. 3. Documentation. ~~The director may request the~~  
14 responsible tire collector ~~to~~ shall submit ~~any~~ to the director  
15 ~~documentation the director deems necessary~~ reasonably requires  
16 to enable the director to make the determinations in subpart 1.

17 Subp. 4. Disbursement. The amount of money to be  
18 disbursed as reimbursement for the cost of abatement shall be  
19 based on the actual costs to the responsible tire collector,  
20 provided that those costs are not in excess of the reimbursement  
21 rate established in the stipulation agreement. No money shall  
22 be disbursed to reimburse abatement expenses that exceed the  
23 total reimbursement amount set under part 7035.8070, subpart 5,  
24 and as incorporated into the stipulation agreement.