

1 Pollution Control Agency

2

3 Adopted Permanent Rules Relating to Waste Tire Dump Abatement

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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.