

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Venue: Abatement of Waste Tire Dumps Court File NO. _____

PLEADINGS REGISTER FOR

_____ vs. _____

NO.	TITLE OF PLEADING (Date or if Undated, Date Received)	NO.	TITLE OF PLEADING (Date or if Undated, Date Received)
1	Notice of Solicitation of Outside Opinion; 10/22/84		
2	Certificate of the Minnesota Pollution Control Agency's Authorizing Resolution; 7/12/86		
3	Proposed Rule With Revisor's Certificate; 8/1/86		
4	Notice of Intent to Adopt a Rule Without a Public Hearing as Mailed; 8/15/86		
5	Statement of Need and Reasonableness in Support of the Proposed Rule; 8/1/86		
6	Affidavit of Mailing the Notice of Intent to Adopt a Rule Without a Public Hearing; 8/29/86		
7	Notice of Intent to Adopt the Rule Without a Public Hearing as published in the State Register; 9/1/86		
8	Rule as adopted and approved by the Revisor; 10/29/86		
9	Certificate of the MPCA's resolution adopting the rule; 10/28/86		
10	Findings of Fact, Conclusions, and Order Adopting the Rule; 10/28/86		
11	Written requests, submissions, or comments on the rule received by the Agency.		
12	Declaration of compliance with rulemaking procedures; 11/17/86		

RULE REVIEW CHECKLIST

File No. 1331 Docket No. 05.0009.0696

DATE RECEIVED 11-20-86
REVIEW DATE 11-30-86
DUE DATE 12-8-86

APPROVED 12/4/86
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING ✓
EMERGENCY RULE

REVISOR APPROVED
REVISOR DISAPPROVED
FILED W/SEC. STATE 12-5-86
RETURNED TO AGENCY 12-8-86

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion
Oct 22, 1984 Date published in State Register
Comments

~~Petition for Adoption of a Rule~~

✓ Board's Authorizing Resolution

✓ Proposed rule
yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
115A.914 subd 1 Statutory Authority
none Small business statement
none Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
Aug 28, 1986 Date 30/25 days before adoption

✓ Publication in State Register
Sept 1, 1986 Date 30/25 days before adoption

✓ Resolution Adopting

✓ Findings of Fact, Conclusions & Order Adopting
Oct 28, 1986 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney
Ann E Cohen Name of SAAG representing agency

~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: DUANE DAHLBERG
Pollution Control Agency

DATE: 12-08-86

ATTN: ANN E. COHEN
Special Assistant Attorney General

FROM: J. MICHAEL MILES JMM
Assistant Attorney General

PHONE: 296-6555

SUBJECT: Adopted Permanent Rules Relating to Waste Tire Dump Abatement

The above-referenced rule has been approved as to its legality by the Attorney General on December 4, 1986.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

JMM/ag
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR#1331

Pollution Control Agency

Adopted Permanent Rules Relating to Waste Tire Dump Abatement

Rules as Adopted

7035.8000 SCOPE.

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

7035.8010 DEFINITIONS.

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

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

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

Subp. 4. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7035.8020 ABATEMENT PROCEDURES.

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

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

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

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

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

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

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

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

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

7035.8030 CONTENTS OF ABATEMENT PLAN.

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

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

A. A description of the processing techniques.

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

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

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

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

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

G. A description of how records on the number of

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waste tires processed and removed will be maintained.

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

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

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

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

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

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

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

F. A description of how records on the number of

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waste tires removed will be maintained.

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

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

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

7035.8040 INADEQUATE RESPONSE TO A REQUEST FOR ABATEMENT ACTION.

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

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

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

C. the responsible tire collector has failed to sign

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

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

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

7035.8050 TECHNICAL STANDARDS.

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

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

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

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

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

7035.8060 OPERATIONAL STANDARDS.

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

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 10. **Operational record.** The operator of the tire dump shall maintain records of the number of waste tires received at the tire dump, stored at the tire dump, and shipped from the tire dump. Records shall also be kept of the amount of tire-derived products received, stored, or shipped from the tire dump. At the completion of an abatement increment, the responsible tire collector shall submit to the director a record of the approximate number of waste tires remaining in the tire dump; the amount of tire-derived products stored at the tire dump; and the number of waste tires or amount of tire-derived products received at the tire dump and shipped from the tire dump during the abatement increment. For waste tires and tire-derived products shipped to another location, the date and the amount shipped must be included.

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

7035.8070 REIMBURSEMENT.

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

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

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

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

R = (M x $0.125) + or - PC

(transport cost) (processing cost)

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

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

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

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

7035.8080 REIMBURSEMENT DISBURSEMENT.

Subpart 1. **Request for disbursement.** After the completion

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

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

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

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

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

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

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

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

3:35 PM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 5 1986

Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
12/4 1986
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY _____
ASSISTANT ATTORNEY GENERAL

Pollution Control Agency
Solid and Hazardous Waste Division

Outside Opinion Sought Concerning Proposed Rules Relating to the Abatement of Waste Tire Nuisances

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from sources outside the MPCA in preparing rules pursuant to Minnesota Laws 1984, Chapter 654, Article II, Section 95 which authorizes the MPCA to abate a tire dump nuisance by processing and removing the tires. Before taking any action to abate a nuisance, the MPCA is required to give notice to the tire collector responsible for the nuisance that the tires constitute a nuisance and demand that the tires be shredded or chipped or removed within a specified period. Failure of the tire collector to take the required action within the specified period shall result in the issuance of an MPCA order to abate the nuisance. The abatement order may include entering the property where the nuisance is located, taking tires into public custody, and providing for their processing and removal.

The abatement rules will apply to waste tire collectors who will be required to abate their stockpiles, and will address abatement procedures and requirements, guidelines for abatement compensation, and public participation.

The MPCA requests information and opinions concerning the subject of these rules.

Written or oral information and comments may be submitted to Karen A. Ryss at the address listed below or at 612/297-1793 during regular business hours.

Karen A. Ryss
Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B2
Roseville, Minnesota 55113

Information or comments will be accepted until November 12, 1984. Any written material received by the MPCA shall become part of the background record regarding these abatement rules.

October 12, 1984

Thomas J. Kalitowski
Executive Director

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is November 13, 1984.

SMALL BUSINESS PROCUREMENT ADVISORY COUNCIL has 1 vacancy open immediately for a member. The council advises the Commissioner of Administration on the small business procurement programs, reviews complaints from vendors, and reviews compliance reports. Members are appointed by the Governor. Members receive no compensation. For specific information contact the Small Business Procurement Advisory Council, 112 Administration Bldg., St. Paul 55155; (612) 297-4412.

HIGHER EDUCATION COORDINATING BOARD has 1 vacancy open for a citizen of the fifth congressional district. Must have knowledge or interest in post-secondary education. Shall not be an employee of or receive compensation from a public or private post-secondary institution while serving on the Board. The board analyzes and develops plans to meet present and long range higher education needs. Members must file with EPB. Members are appointed by the Governor and confirmed by the Senate. Members receive $35 per diem. Monthly meetings, Capitol area and occasionally out-state. For specific information contact the Higher Education Coordinating Board, 400 Capitol Square Bldg., St. Paul 55101; (612) 296-3974.

ADVISORY COUNCIL ON UNIFORM FINANCIAL ACCOUNTING AND REPORTING STANDARDS has 2 vacancies open: 1 for a representative of the Minnesota Dept. of Education and 1 for a certified public accountant. The council provides the Board of Education with uniform accounting and reporting standards for school districts; formulates and recommends rules; changes in statutes, modifications of financial accounting codes, manuals, procedures and reporting

CERTIFICATE OF THE
MINNESOTA POLLUTION CONTROL AGENCY's
AUTHORIZING RESOLUTION

2

I, Duane Dahlberg, do hereby certify that I am a member and the chairman of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> BE IT RESOLVED, that the Executive Director of the Minnesota Pollution Control Agency (MPCA) is hereby granted the authority to sign an order of the MPCA directing that notice be given of the MPCA's intent to adopt, without a public hearing, the attached proposed rules of the MPCA governing waste tire dump abatement, Minn. Rules pts. 7035.8000 to 7035.8080, to sign the Notice thereof, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the MPCA to make in order to obtain the revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1984).
>
> BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Executive Director is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order and Notice for Hearing, as well as acting as the MPCA's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 7 day of November, 1986.

Duane A. Dahlberg
Duane Dahlberg
Chairman

Marcia R. Gelpe
Attest by one other Board member
11/12/86

RECEIVED
NOV 10 1986
MPCA, SOLID & HAZ.
WASTE DIVISION

Pollution Control Agency

Proposed Permanent Rules Relating to Waste Tire Dump Abatement

Rules as Proposed (all new material)

3

7035.8000 SCOPE.

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

7035.8010 DEFINITIONS.

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

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

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

Subp. 4. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7035.8020 ABATEMENT PROCEDURES.

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

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

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

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

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

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

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

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

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

7035.8030 CONTENTS OF ABATEMENT PLAN.

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

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

A. A description of the processing techniques.

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

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

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

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

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

G. A description of how records on the number of

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waste tires processed and removed will be maintained.

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

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

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

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

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

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

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

F. A description of how records on the number of

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waste tires removed will be maintained.

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

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

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

7035.8040 INADEQUATE RESPONSE TO A REQUEST FOR ABATEMENT ACTION.

Subpart 1. **Inadequate response.** The agency shall determine if a responsible tire collector has failed to make an adequate response to a request for abatement action. The agency may find that response has been inadequate if:

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

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

C. the responsible tire collector has failed to sign a stipulation agreement incorporating the abatement plan approved by the director; or

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

Subp. 2. **Abatement order.** If the agency determines that a responsible tire collector has failed to make an adequate response to a request for abatement action, the agency may issue a tire dump abatement order to the responsible tire collector. A tire dump abatement order may provide for entering the property where the tire dump is located, taking the waste tires into public custody, and arranging for their processing and removal.

7035.8050 TECHNICAL STANDARDS.

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

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

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

Subp. 4. **Dimensions of waste tire piles.** No individual waste tire pile shall have an area greater than 10,000 square feet or a vertical height greater than 20 feet. A 50-foot fire lane shall be placed around the perimeter of each waste tire pile. This fire lane shall be maintained free of rubbish,

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equipment, and vegetation at all times.

7035.8060 OPERATIONAL STANDARDS.

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

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 10. **Operational record.** The operator of the tire dump shall maintain records of the number of waste tires received at the tire dump, stored at the tire dump, and shipped from the tire dump. Records shall also be kept of the amount of tire-derived products received, stored, or shipped from the tire dump. At the completion of an abatement increment, the responsible tire collector shall submit to the director a record of the approximate number of waste tires remaining in the tire dump; the amount of tire-derived products stored at the tire dump; and the number of waste tires or amount of tire-derived products received at the tire dump and shipped from the tire dump during the abatement increment. For waste tires and tire-derived products shipped to another location, the date and the amount shipped must be included.

Subp. 11. **Inspection.** At the completion of each abatement increment, the responsible tire collector shall notify the director so that an inspection of the tire dump may be conducted

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to certify the completion of the required abatement.

7035.8070 REIMBURSEMENT.

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

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

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

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

$$R = \underbrace{(M \times \$0.125)}_{\text{(transport cost)}} \quad + \text{ or } - \underbrace{PC}_{\text{(processing cost)}}$$

Where R is the potential reimbursement rate in dollars per ton; M is the miles needed to transport the waste tires to the processing facility; the figure $0.125 represents the cost of transporting a ton of waste tires one mile; and PC is the net dollar cost per ton to the responsible tire collector of processing these waste tires. If the responsible tire

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collectors processing revenues exceed processing costs, for example, there is no net cost but instead a net profit, the amount of revenue shall be subtracted from the transportation cost portion of the formula. PC may not exceed $66 per ton.

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

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

7035.8080 REIMBURSEMENT DISBURSEMENT.

Subpart 1. **Request for disbursement.** After the completion of an abatement increment, the responsible tire collector may request the director for reimbursement of the costs incurred during that abatement increment.

Subp. 2. **Findings.** Before any money is disbursed as

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reimbursement for the cost of abatement, the director shall make the following determinations:

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

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

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

Subp. 3. **Documentation.** The director may request the responsible tire collector to submit any documentation the director deems necessary to enable the director to make the determinations in subpart 1.

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

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Waste Tire Dump Abatement

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7035

The attached rules are approved for publication in the State Register

Paul M. Marinac
Assistant Deputy Revisor

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Permanent Rules Governing the
Abatement of Waste Tire Dumps,
Minn. Rules Pts. 7035.8000 to
7035.8080

NOTICE OF INTENT TO
ADOPT PERMANENT RULES
WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) intends to adopt without a public hearing, in accordance with the provisions of Minn. Stat. §§ 14.22 to 14.28 (1984), permanent rules governing the abatement of waste tires dumps.

The proposed rules, if adopted, will provide for the administration of the MPCA's waste tire dump abatement program. The proposed rules provide a procedure by which the MPCA will take action to abate waste tire dumps in the State. The proposed rules are authorized by Minn. Stat. § 115A.914, subd. 1 (1984). A copy of the proposed rules is published below. One free copy of the proposed rules is available upon request from the MPCA. Please contact the person whose name and address appears below.

The MPCA has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon by the MPCA to support the proposed rules. Copies of the Statement of Need and Reasonableness and of the proposed rules are available and may be obtained by contacting:

Patrick Carey
Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: 612/296-7321

Copies of the proposed rules and of the Statement of Need and Reasonableness may also be viewed at the MPCA regional offices at the following locations:

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Duluth Region
Duluth Government Center
320 West Second Street
Duluth, Minnesota 55802
218/723-4660

Brainerd Region
304 East River Road
Suite 3
Brainerd, Minnesota 54601
218/828-2492

Detroit Lakes Region
714 Lake Avenue
Suite 220
Detroit Lakes, Minnesota 56501
218/847-1519

Marshall Region
RLC Building
109 South Fifth Street
Marshall, Minnesota 56258
507/537-7146

Rochester Region
2116 Campus Drive Southeast
Rochester, Minnesota 55901
507/285-7343

Interested parties have until 4:30 p.m. on October 1, 1986 to submit comments on the proposed rules. Comments should be submitted to Patrick Carey at the address stated above. The proposed rules may be modified if the data and views received by the MPCA before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed rules.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the comment period, a public hearing will not be held. In the event that a public hearing is required, the MPCA will proceed according to the provisions of Minn. Stat. §§ 14.131 to 14.20 (1984). If a person desires to request a public hearing, the MPCA requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the rules by the MPCA Board, the rules as proposed, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be sent to the Attorney General for review

as to form and legality. Persons who wish to be advised of the submission of this material to the Attorney General, or wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Patrick Carey at the address previously stated.

Date: August 15, 1986

Thomas J. Kalitowski
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the
Proposed Rules Governing
Waste Tire Dump Abatement

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

Improper waste tire storage and disposal threatens natural resources and the quality of the environment, and endangers the public health, safety and welfare. Waste tires provide an ideal breeding habitat for mosquitoes which carry and transmit the LaCrosse Encephalitis virus, which endangers young people. Tires also become a major fire hazard when stacked in piles. Tires do not start on fire easily, but once a tire pile begins to burn, it is almost impossible to extinguish. In addition to the routine hazards created by a fire, combustion reactions within a tire pile generate a run-off containing pyrolytic oil which when allowed to contaminate the ground water is a hazard to public health and the environment. Because of the problems associated with waste tire dumps stated above, the Legislature has declared tire dumps to be a nuisance. Minn. Stat. § 115A.906, subd. 1 (1984).

The Minnesota Pollution Control Agency (hereinafter "Agency") is proposing a set of rules to control the abatement of waste tire dumps. These proposed rules apply to waste tire dumps located within the State of Minnesota. The rules are proposed for adoption pursuant to the Agency's authority under Minn. Stat. §§ 116.07, subd. 4 (1984) and 115A.914, subd. 1 (1984).

The statement is divided into nine parts. After this introduction, part II provides an overview of the proposed rules. Part III discusses the legal and

historical background of the waste tire dump abatement rules. Part IV contains the Agency's explanation of the need for the proposed rules as a whole. Part V contains the Agency's explanation, part by part, of the reasonableness of the proposed rules. Part VI documents how the Agency has considered the methods for reducing the impact of the proposed rules on small businesses, pursuant to the requirements of Minn. Stat. § 14.115 (1984), "Small Business Considerations in Rulemaking." Pursuant to Minn. Stat. § 116.07, subd. 6 (1984), part VII documents the economic impacts of the proposed rules. Part VIII contains the Agency's conclusion. Part IX contains a list of exhibits relied on by the Agency to support the proposed rules. The exhibits are available for review at the Agency's offices at 1935 West County Road B2, Roseville, Minnesota 55113.

II. OVERVIEW OF PROPOSED RULES

Minn. Stat. § 115A.906, subd. 2 (1984) specifies a general waste tire dump abatement process. Minn. Stat. § 115A.906, subd. 2 (1984) states that:

> . . . the agency may abate a nuisance by processing and removing the tires. Before taking any action to abate a nuisance, the agency shall give notice to the tire collector responsible for the nuisance that the tires to be processed and removed constitute a nuisance and demand that the tires be shredded or chipped or removed within a specified period. Failure of the tire collector to take the required action within the specified period shall result in the issuance of an agency order to abate the nuisance. The abatement order may include entering the property where the nuisance is located, taking tires into public custody, and providing for their processing and removal. The agency order may be enforced pursuant to the provisions of section 115.071.

Minn. Stat. § 115A.906, subd. 2 (1984).

Minn. Stat. § 115A.906, subd. 4 (1984) goes on to state in relevant part: "The agency may reimburse a person or political subdivision for the costs of

abatement."

Based on the general waste tire dump abatement process specified by statute above, the proposed rules provide the following administrative procedures for the abatement of waste tire dumps:

A. A tire collector who owns or operates a tire dump is subject to Agency abatement action. As defined by Minn. Stat. § 115A.90, subd. 8, a tire collector is a person who owns or operates a site used for the storage, collection, or deposit of more than 50 waste tires. As defined by Minn. Stat. § 115A.90, subd. 9, a tire dump is an establishment, site, or place of business without a required tire collector or tire processor permit that is maintained, operated, used or allowed to be used for storing, keeping or depositing unprocessed waste tires.

B. The Agency will issue a request for abatement action to the tire collector responsible for the tire dump. Requests for abatement actions will be issued to tire collectors responsible for tire dumps that meet the spending priorities established in Minn. Stat. § 115A.912, subd. 2. The availability of waste tire collection funds and the Agency's administrative ability to take action will also be considered when the Agency moves to abate a tire dump through the issuance of a request for abatement action.

C. The request for abatement action will specify the action that must be taken, the reasons the Agency requests the action, a time frame within which to respond to the request, and the Agency's intended actions if the tire collector does not comply with the request for abatement action.

D. The request for abatement action will request the tire collector

responsible for the tire dump to submit an abatement plan to the Agency. This plan must propose a method for cleaning up the tire dump that is acceptable to the Agency. The plan must also propose a means for bringing the tire dump into compliance with technical standards specified in the proposed rules. The abatement of the tire dump must be completed within five years.

E. The response made by the tire collector to a request for abatement action must be incorporated into a stipulation agreement signed by the tire collector and the Agency.

F. If the tire collector does not respond adequately to the request for abatement action or is in violation of the provisions of the stipulation agreement, the Agency may make a determination of inadequate response and issue the tire collector a tire dump abatement order. The order may provide for entering the property where the tire dump is located, taking tires into public custody, and arranging for their processing and removal.

G. Tire collectors who notified the Agency of their existence under the emergency rules, who are requested by the Agency to abate, and who have entered into a stipulation agreement incorporating an abatement plan are eligible for a partial reimbursement of the costs incurred as a result of abatement action taken by the tire collector in accordance with a signed stipulation agreement. The proposed rules state the criteria that will be applied by the Agency for partial reimbursement.

In the proposed rules, the general procedures set out above have been divided into nine parts. These nine parts are as follows.

A. Pt. 7035.8000 is entitled "Scope." This part specifies the contents

and purpose of the proposed rules and the persons directly affected by them.

B. Pt. 7035.8010 is entitled "Definitions." It contains definitions of specific terms used in the proposed waste tire dump abatement rules.

C. Pt. 7035.8020 is entitled "Abatement Procedures." This part describes the criteria the Agency shall use in deciding which tire dumps to abate first, the procedures that the Agency shall follow in abating tire dumps, and the actions that responsible tire collectors must take to comply with an Agency request to abate. This part requires a tire collector issued a request for abatement action to submit an abatement plan to the Agency which states a proposal for cleaning up the tire dump.

D. Pt. 7035.8030 is entitled "Contents of Abatement Plan." This part specifies what a responsible tire collector must include in an abatement plan to meet Agency approval. The abatement plan must provide for cleanup in staged "abatement increments" with completion within five years. This part also requires the responsible tire collector to enter into a stipulation agreement with the Agency incorporating the abatement plan.

E. Pt. 7035.8040 is entitled "Inadequate Response to a Request for Abatement Action." This part specifies the four criteria the Agency will apply in determining whether a tire collector has failed to take the action requested by the Agency. If the Agency makes a determination of inadequate response, the Agency may issue a tire dump abatement order to the responsible tire collector. This part describes the tire dump abatement order.

F. Pt. 7035.8050 is entitled "Technical Standards." This part sets out locational and fire hazard standards the tire collector must comply with during

abatement. The tire collector is required to remove all waste tires from areas where their presence would endanger human health due to the ideal mosquito breeding grounds tires provide when filled with water. Removal of tires from areas where they may become mosquito breeding grounds is critical because mosquitoes which transmit the LaCrosse Encephalitis virus have been found in Minnesota. The tire collector must reduce fire hazards at the tire dump by constructing fire lanes throughout the tire dump and by limiting the sizes of individual stockpiles contained in the tire dump.

G. Pt. 7035.8060 is entitled "Operational Standards." This part sets out how the tire dump must be operated during abatement. Tire collectors must develop an emergency preparedness manual, and must report to the Agency on progress in abating the nuisance. This part also requires a tire collector to notify the director at the completion of each abatement increment, so the director may inspect the tire dump to certify the work has been completed in accordance with the abatement plan.

H. Pt. 7035.8070 is entitled "Reimbursement." This part sets out the criteria and standards for partially reimbursing a tire collector for the costs of abatement. This part specifies the costs eligible for reimbursement, the tire collectors eligible for reimbursement, and the maximum rate of reimbursement.

I. Pt. 7035.8080 is entitled "Reimbursement Disbursement." This part specifies the findings the Agency director must make before disbursing funds for reimbursement. This part also specifies that only the actual cost of abatement will be reimbursed, provided that those costs are not in excess of the rate established in the stipulation agreement.

III. LEGAL AND HISTORICAL BACKGROUND OF THE RULES

In 1969, the Minnesota Legislature directed the Agency to control solid waste disposal methods and practices and to adopt standards, regulations, and variances regarding solid waste. Minn. Laws 1969, ch. 1046, codified as Minn. Stat. § 116.01 et. seq. (1984).

The statutory authority of the Agency to adopt rules relative to the abatement of land pollution is found in Minn. Stat. § 116.07, subd. 4 (1984) (Rules and standards), which provides in relevant part:

> Subd. 4. Rules and standards. . . .
>
> Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution. . . . Without limitation, rules or standards may relate to collection, transportation, processing, disposal, equipment, location, procedures, methods, systems or techniques or to any other matter relevant to the prevention, abatement or control of water, air, and land pollution which may be advised through the control of collection, transportation, processing, and disposal of solid waste . . . and the deposit in or on land of any other material that may tend to cause pollution. . . .

Minn. Stat. § 116.07, subd. 4 (1984).

The Agency's directive to adopt rules for the administration of waste tire dump abatement is found in Minn. Stat. § 115A.914, subd. 1 (1984), which provides, ". . . The agency shall adopt rules for administration of waste tire collector and processor permits, waste tire nuisance abatement, and waste tire collection."

In 1985, the Minnesota Legislature directed the Agency to adopt emergency rules for the administration of waste tire dump abatement. Minn. Stat. § 115A.914 subd. 1, as amended in Minn. Laws 1985, First Special Session, ch. 13 § 232, provides:

> Agency rules. The agency shall adopt rules for administration of waste tire collector and processor permits, waste tire nuisance abatement, and waste tire collection. Until December 31, 1985, the agency may adopt emergency rules for these purposes.

Minn. Laws 1985, First Special Session, ch. 13 § 232.

The Agency adopted emergency rules governing waste tire dump abatement on October 22, 1985. The emergency rules became effective on November 21, 1985. See Minn. Rules pts. 7035.8000 to 7035.8160 [Emergency] (1985).

Preparation of the proposed rules began in October 1984. At that time, Agency staff reviewed existing waste tire management programs throughout the United States to determine an appropriate direction for development of the Agency's waste tire dump abatement program. During this review, Agency staff prepared a questionnaire on waste tire management issues, including questions specifically dealing with waste tire dump abatement. See Appendix 1. The staff surveyed 49 state environmental protection agencies and the United States Environmental Protection Agency. Local governmental officials with experience in tire dump abatement were also contacted. A summary report was prepared to provide an overview of input. See Appendix 2.

On October 22, 1984 the Agency published a Notice of Intent to Solicit Outside Opinion in the State Register. 9 S.R. 851. See Appendix 3. The notice was mailed to the 87 county solid waste officers, 149 sanitary and demolition

landfill owners and operators, and 47 persons who requested to be placed on the Agency's mailing list for waste tire issues. The Agency staff sent a letter to this same group on October 19, 1984. This letter solicited information concerning the locations and relative sizes of waste tire dumps in the State. The letter included a request for information concerning regional, county, and/or local involvement in the area of waste tire management. See Appendix 4.

Considering both the general abatement process laid down by Minn. Stat. § 115A.906, subd. 2 and the information submitted to the Agency as a result of the Notice to Solicit Outside Opinion and the October 19, 1984 solicitation letter, the Agency staff prepared waste tire dump abatement issue statements. See Appendix 5. Based on the waste tire dump abatement issue statements, Agency staff began drafting the waste tire dump abatement rules.

On June 18, 1985, the Agency notified the interested parties on the waste tire program mailing list that the Board Solid and Hazardous Waste Committee would meet on June 24, 1985 to discuss issues associated with drafting waste tire dump abatement rules. At the June 24 committee meeting, staff presented, in general terms, the history of the promulgation of the rules, possible regulatory methods, and other issues related to waste tire dump abatement. See Appendix 6. Based on the staff's presentation and comments received from the public, the committee provided input and guidance on the development of the rules. The committee directed Agency staff to draft waste tire dump abatement rules for presentation to the committee in July 1985.

On July 22, 1985 Agency staff presented the draft rules to the Solid and Hazardous Waste Committee. At the meeting, Agency staff explained the contents

of the draft rules. See Appendix 7. Several comments were made at the meeting which required minor changes in the draft rules. However, no comments were made by the committee or the public which required a substantial change in the draft rules. The Agency Solid and Hazardous Waste Committee therefore approved the draft rules provided that Agency staff made the minor changes in the draft rules suggested by comments received at the meeting. The committee passed the draft rules on to the Agency Board for consideration at its August 1985 meeting. The committee directed Agency staff to conduct a public meeting in early August prior to the August Agency Board meeting to discuss the contents of the draft rules.

On August 5, 1985 the Agency notified the interested parties on the waste tire program mailing list that the Agency staff would present the draft rules at a public meeting held August 12, 1985. At the August 12 public meeting, Agency staff explained and discussed the contents of the draft waste tire abatement rules with interested parties.

On August 6, 1985 the Agency mailed a letter to the members of the Governor's Commission on Scrap Tires. The letter solicited comments from the members on the draft rules. See Appendix 8.

The Solid and Hazardous Waste Committee of the Agency Board conducted a meeting on August 26, 1985. At the meeting, Agency staff informed the committee of the concerns and comments that were raised at the August 12 public meeting, and addressed changes in the draft rules reflecting issues raised by the committee and interested parties at the July 22, 1985 committee meeting. See Appendix 9.

On August 27, 1985 the Agency Board gave Agency staff authorization to enter into the emergency rulemaking process with the proposed emergency rules governing waste tire dump abatement. See Appendix 10.

The proposed emergency rules were published in the State Register on September 23, 1985. 10 S.R. 687. See Appendix 11. Following the State Register publication date, a 25 day comment period was provided pursuant to emergency rulemaking procedures. Minn. Stat. § 14.30 (1984). The Agency received several comments during the comment period. See Appendix 12.

Considering the comments made during the 25 day comment period, the Agency Board conducted a meeting on October 22, 1985 and adopted the emergency rules governing waste tire dump abatement, as proposed, with one minor change. See Appendix 13. The Agency published a Notice of Adoption in the State Register on December 9, 1985. 10 S.R. 1311. See Appendix 14.

The emergency rules governing waste tire dump abatement became effective on November 21, 1985.

In working to develop permanent rules governing waste tire dump abatement, Agency staff considered the comments made by interested parties during the 25 day comment period provided prior to the Agency adopting the emergency rules. The Agency staff also considered problems with the abatement process provided in the emergency rules discovered as a result of implementing the emergency rules. The emergency rules provided for the following options.

A. Abatement Plan.

Under this option, a waste tire collector was required to submit an abatement plan to the Agency specifying how he/she would clean up the tire dump

while complying with certain abatement standards. Once approved by the Agency, the plan was to be incorporated into a stipulation agreement signed by the tire collector and the Agency. If the plan was followed, the Agency would provide for up to a $10 per ton reimbursement of the costs of removal and processing.

B. Sign Over.

Under this option, the tire collector would sign the tire dump into public custody. The State would then provide for the cleanup of the tire dump. The State would seek recovery of the actual cost of abatement from the tire collector after abatement was completed.

During the 25 day comment period provided prior to the Agency adopting the emergency rules as well as at the Board meeting in which the Agency adopted the emergency rules, commenters expressed problems with the sign-over and reimbursement options provided for under the emergency rules. Staff also identified various problems associated with the sign-over option.

Agency staff presented these problems to the Agency Board Solid and Hazardous Waste Committee on May 19, 1986. See Appendix 15. Based on Agency staff's presentation and input from interested parties attending the meeting, the committee recommended that agency staff change the emergency rules by eliminating the sign-over option. The committee also directed Agency staff to investigate the claim that the reimbursement rate was too low and to establish a new reimbursement rate in the draft rules if needed.

Agency staff drafted the permanent rules based on the emergency rules, but excluding the sign-over option. Also, Agency staff also provided a new reimbursement rate.

On July 9, 1986 the Agency Board Solid and Hazardous Waste Committee conducted a meeting to discuss the draft permanent rules and the new reimbursement rate formula. See Appendix 16. The committee believed that while the formula adequately dealt with the costs associated with cleaning up passenger automobile and light truck tires, it did not adequately deal with costs associated with heavy truck and off-the-road vehicle tires. The committee therefore directed Agency staff to redraft the reimbursement rate formula to deal with oversize tires. The committee also recommended an upper limit be established on the processing cost portion of the formula to deal with potential processor monopoly problems.

Agency staff redrafted the reimbursement rate portion of the rules and presented it to the Agency Board Solid and Hazardous Waste Committee on July 21, 1986. See Appendix 17.

Following discussion, the committee recommended that the draft rules be presented at the Agency Board at its August 12, 1986 meeting for authorization to enter into the rulemaking process.

IV. NEED FOR THE PROPOSED RULES

Minn. Stat. § 14.23 (1984) requires an agency to make an affirmative presentation of facts establishing the need for and reasonableness of the rules proposed. In general terms, this means that an agency must prove that in enacting rules the agency is not being arbitrary or capricious. To the extent that need and reasonableness are separate, need has come to mean that a problem exists that requires administrative attention and reasonableness means that the

solution proposed by the agency is a proper one.

The proposed rules are needed to assist the Agency to abate land pollution, as required by Minn. Stat. § 116.07, subds. 2 and 4 (1984). The proposed rules are needed to make specific the abatement process laid down by Minn. Stat. § 115A.906 as required by Minn. Stat. § 115A.914, subd. 1. The rules are further needed to aid counties in developing plans for the abatement of waste tire dumps, as required by Minn. Stat. § 115A.914, subd. 2 (1984). The rules also respond to the legislative policy set out in Minn. Stat. § 116D.02, subd. 2 (m): to conserve natural resources by recycling.

A. Minn. Stat. § 116.07 (1984).

The Minnesota Legislature has required the Agency to adopt standards for, ". . . the control of the collection, transportation, storage, processing, and disposal of solid waste . . . for the prevention and abatement of water, air, and land pollution . . . ." Minn. Stat. § 116.07, subd. 2 (1984). The Legislature has supplemented that basic provision and made it more specific with the following:

> Subd. 4. Rules and standards. . . .
>
> Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt . . . rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the collection, transportation, storage, processing and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution. . . . Without limitation, rules or standards may relate to collection, transportation, processing, disposal, equipment, location, procedures, methods, systems or techniques or to any other matter relevant to the prevention, abatement or control of water, air, and land pollution which may be advised through the control of collection, transportation, processing, and disposal of solid waste . . . and the deposit in or on land of any other material that may tend to cause

pollution. . . .

Minn. Stat. § 116.07, subd. 4 (1984).

Waste tires are a solid waste. Moreover, waste tires tend to cause pollution and are a detriment to human health.

According to the Metropolitan Mosquito Control District and State health officials, a mosquito which carries and transmits the LaCrosse Encephalitis virus, which endangers young people, is present in Minnesota. This mosquito is generally found in wooded areas, and typically breeds in water filled stumps and holes in trees. However, stagnant water in whole tires also provides an ideal breeding habitat and is preferred to tree holes when available. See Appendix 18.

Tires become a major fire hazard when stacked in piles. Tires do not start on fire easily, but once a tire pile begins to burn, it is almost impossible to extinguish. In addition to the routine hazards created by a fire, combustion reactions within a tire pile generate a run-off containing pyrolytic oil (synthetic crude oil), gas, and carbon black. The generation of pyrolytic oil is a hazard to public health and the environment when allowed to contaminate the ground water.

In 1983, in the state of Virginia, a tire dump containing between 7 to 9 million waste tires caught on fire. The fire burned for over eight months. It cost the federal government 1.8 million dollars to fight the fire and clean up the area. Over 840,000 gallons of liquid containing pyrolytic oil were collected at the site.

The proposed rules for waste tire dump abatement will provide for the

processing, removal, and utilization of waste tires. The proposed rules will also decrease the risk of fire and mosquito infestation for tire dumps subject to abatement. Thus, the proposed rules will abate pollution of the land resulting from the improper disposal of waste tires, a solid waste.

B. Minn. Stat. § 115A.914 (1984).

The Minnesota Legislature has required the Agency to, "adopt rules for administration of waste tire collector and processor permits, waste tire nuisance abatement, and waste tire collection." Minn. Stat. § 115A.914, subd. 1 (1984).

The proposed rules are needed to control the abatement of waste tire dumps, which are by statute defined to be a nuisance. Minn. Stat. § 115A.906, subd. 1 (1984). The rules for waste tire dump abatement will establish a process through which the Agency will move to abate waste tire dump nuisances.

C. Minn. Stat. § 115A.906 (1984) (Statutory Abatement Process).

Minn. Stat. § 115A.906, subd. 1 (1984) establishes that, ". . . a tire dump unreasonably endangers the health, safety, and comfort of individuals and the public and is a nuisance." Minn. Stat. § 115A.906, subd. 2 (1984) goes on to state that:

> . . . The agency may abate a nuisance by processing and removing the tires. Before taking any action to abate a nuisance, the agency shall give notice to the tire collector responsible for the nuisance that the tires to be processed and removed constitute a nuisance and demand that the tires be shredded or chipped or removed within a specified period. Failure of the tire collector to take the required action within the specified period shall result in the issuance of an agency order to abate the nuisance. The abatement order may include entering the property where the nuisance is located, taking tires into public custody, and providing for their processing and removal. . . .

Minn. Stat. § 115A.906, subd. 2 (1984).

The proposed rules make specific the abatement process laid down by Minn. Stat. § 115A.906, subd. 2 (1984). The proposed rules set out what is expected of a tire collector during the abatement process and the action the Agency will take in moving through the abatement process. The proposed rules are needed to provide a waste tire dump abatement process which is specific, and consistently used.

D. Minn. Stat. § 115A.914 (Guidance to Counties).

Minn. Stat. § 115A.914, subd. 2 (1984) provides that, ". . . Counties shall include collection and processing of waste tires in the solid waste management plan prepared under sections 115A.42 to 115A.46 . . . ."

Because the counties need to know how the Agency will move to clean up waste tire dumps in developing their waste tire management plans, the proposed rules are needed to aid the counties in developing these plans.

E. Minn. Stat. § 116D.02, Subd. 2(m).

The Minnesota Legislature, ". . . authorizes and directs that, to the fullest extent practicable the policies, regulations, and public laws of the state shall be interpreted and administered in accordance with the policies set forth in sections 116D.01 to 116D.06." Minn. Stat. § 116D.03, subd. 1 (1984).

Under Minn. Stat. § 116D.02 (1984) the Minnesota Legislature directs State government to ". . . use all practicable means . . . to improve and coordinate state plans, functions, programs and resources to the end that the state may, . . .(m) Conserve natural resources and minimize environmental impact by . . . recycling materials to conserve both materials and energy. . . ." Minn. Stat. § 116D.02, subd. 2(m), (1984).

Technological advances have provided a use for waste tires. Energy and valuable materials can be conserved by the reuse and recycling of waste tires. The proposed rules promote the conservation of valuable materials and energy resources as directed by the Legislature.

F. Summary.

The Agency believes the statutory authority set forth above establishes the need for rules governing the abatement of waste tire dumps. The proposed rules respond to that need.

V. REASONABLENESS OF THE PROPOSED RULES

A. Introduction.

The Agency is required to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Minn. Stat. § 14.23 (1984). Reasonableness is the opposite of arbitrariness and caprice and means that there is a rational basis for the Agency's proposed action. The purpose of this section is to demonstrate that each provision is a reasonable approach to its defined function.

B. Reasonableness of Proposed Abatement Approach.

In working to develop the waste tire dump abatement rules, the Agency considered various alternatives based on the general abatement process set down by Minn. Stat. § 115A.916, subd. 2 (1984). Subdivision 2 states that:

> . . . The agency may abate a nuisance by processing and removing the tires. Before taking any action to abate a nuisance, the agency shall give notice to the tire collector responsible for the nuisance that the tires to be processed and removed constitute a nuisance and demand that the tires be shredded or chipped or removed within a specified period. Failure of the tire collector to take the required action within the specified period shall result in the issuance of an agency order to abate the nuisance. The abatement order may include entering

> the property where the nuisance is located, taking tires into public custody, and providing for their processing and removal. The agency order may be enforced pursuant to the provisions of section 115.071.

Minn. Stat. § 115A.906, subd. 2 (1984).

The following four abatement process approaches were considered by the Agency:

1. Direct Agency abatement action.

Under this approach, the tire collector would be issued a request for abatement action. If the waste tire collector did not adequately respond to the request, an abatement order would be issued. The tires could then be taken into public custody and the State could provide for their cleanup. The attorney general could seek to recover all State abatement expenses from the responsible tire collector.

2. Stipulation agreement incorporating abatement plan.

Under this approach, waste tire collectors would be required to submit an abatement plan to the Agency specifying how they will clean up the tire dump while complying with certain abatement standards outlined by the Agency. Once approved by the Agency, the plan would be incorporated into a stipulation agreement signed by the tire collector and the Agency. If the tire collectors failed to submit a plan or sign a stipulation agreement or did not comply with the provisions of the stipulation agreement, the Agency could proceed to issue an abatement order, as in the first outlined abatement approach.

3. Sign over.

Under this approach, a tire collector would be allowed to sign the tire dump into public custody. The State would then provide for the cleanup of the

tire dump. The State would retain the right to seek recovery of funds for the actual cost of abatement.

4. Partial reimbursement for cleanup activities taken by the tire collectors.

In reviewing the approach options, the Agency recognized that many tire collectors would not have the funds needed to clean up their tire dumps. Thus, the Agency also considered whether providing for partial reimbursement of cleanup costs would give tire collectors an incentive to actively clean up their tire dumps, reducing the ultimate cost to the State.

The Agency's reasons for accepting or rejecting the outlined approaches are discussed below.

1. Direct Agency abatement action.

This type of abatement process closely coincides with the abatement process outlined by Minn. Stat. § 115A.906, subd. 2 (1984). However, in researching waste tire dump abatement in other states, Agency staff discovered that when a direct enforcement approach was used, the tire dumps were set on fire shortly after the abatement notice was issued to the tire dump owners. Only one exception was found. In that case, the tire dump owner could not be located and the city took public custody of the tire dump. This tire dump was set on fire by vandals shortly thereafter. These sites are being tested to assess whether contamination caused by the oil residue emitted from the tires has made them hazardous. If the sites are found to be hazardous, the cost of cleanup would far outweigh the cost of processing and removing the waste tires.

Because of the arson problem, the Agency believes the direct abatement

action approach is not a reasonable approach in and by itself. While the Agency does propose to incorporate portions of this approach into the overall abatement process provided in the proposed rules, the direct abatement action approach is combined with incentives (negotiated abatement plans and partial reimbursement of costs) for tire dump owners or operators to actively clean up their tire dumps. It is hoped that these incentives will decrease the number of tire collectors who might use arson to escape liability.

2. Stipulation agreement incorporating an abatement plan.

This abatement process approach shares problems with the first approach. However, this approach provides an incentive to tire dump owners or operators which the first approach does not. Under this approach, the tire collector submits an abatement plan specifying how and when the tire dump will be cleaned up. The abatement plan must be incorporated into a stipulation agreement signed by the tire collector and the Agency. This approach provides the tire collector and the Agency with the discretion to negotiate an acceptable abatement plan. While this approach probably does not completely solve the arson problem associated with tire dump abatement, because it provides for a negotiated cleanup plan the process should be more acceptable to tire collectors, and they should be more willing to accept responsibility.

The Agency believes this approach is within the statutory authority of Minn. Stat. § 115A.906, subd. 2 (1984) and has incorporated it, along with partial reimbursement, into the proposed rules.

3. Sign over.

The Agency believes the sign-over option should be excluded from the rules

for two reasons. First, the Agency received comments from the public during the 25 day comment period provided prior to the Agency adopting the emergency abatement rules critical of the sign-over option, and in favor of direct Agency abatement action. It was thought that tire collectors with funds adequate to clean up their tire dumps would try to use sign-over in order to escape financial liability.

Second, the Agency discovered that a great deal of confusion existed regarding the recovery of expenses after sign-over. Many parties believed that since sign-over was cooperative, the State would not seek to recover abatement expenses. This was never the Agency's intent. Were this the case, no tire collector would ever agree to pursue cleanup himself or herself.

Considering the confusion and the comments, the Agency has deleted the sign-over option from the proposed rules.

4. Partial reimbursement for cleanup activities taken by the tire collector.

While the Agency believes tire collectors owning or operating tire dumps are financially responsible for the cleanup of their tire dumps, the Agency believes that a partial reimbursement will lower the total cleanup costs by providing an incentive for tire collectors to clean up their tire dumps in the most cost efficient manner. The Agency believes this type of an incentive is needed to avoid the use of arson as a solution to tire dump liabilities.

The Agency believes that the most reasonable waste tire dump abatement approach combines the direct abatement, the stipulation agreement, and partial reimbursement approaches. The Agency proposes to oversee the cleanup of tire

dumps under a negotiated binding agreement signed by the responsible tire collector and the Agency, while providing an economic incentive to the tire collector. The proposed rules embody this approach.

C. Reasonableness of Rule as Drafted.

In the following pages, the reasonableness of each of the nine parts of the proposed rules are discussed.

1. Pt. 7035.8000 Scope.

This part, which gives an overview of the contents of the rule, is reasonable because it informs affected persons, the public, and other governmental units of the purpose and content of the rules.

2. Pt. 7035.8010 Definitions.

This part contains the definitions of key words and phrases used in the waste tire dump abatement rule. The definitions are needed so that the rule may be subject to consistent interpretation. Some of the definitions are identical to statutory definitions, and thus are not in need of additional justification. Other definitions require some explanation. The reasonableness of these definitions is set out below.

Subp. 2. Abate or Abatement. A definition of abatement is given to clarify what the Agency means when it requests a tire collector to take action to abate the tire dump. Abatement means to process and remove the tires in a manner accepted by the Agency. This definition is reasonable because the Agency does not wish to limit the kind of processing employed by the tire collector, yet wishes to ensure that the processing is environmentally acceptable. The Agency is concerned that tires from Minnesota sites not end up

polluting neighboring jurisdiction.

Because tire collectors are required to abate their tire dumps pursuant to a stipulation agreement, it is reasonable to define abatement as, "to process and remove the tires in a manner accepted by the Agency."

Subp. 3. Abatement increment. Because this term is unique to the waste tire dump abatement rule, it is necessary to define it. The definition establishes that an abatement increment is a period of time specified in an abatement plan, not greater than six months and not less than one month, during which a specified number of waste tires will be removed from the tire dump and processed. The period of time allowed for abatement increments is reasonable given the administrative and technical restrictions on the Agency's ability to evaluate progress in abating a tire dump.

Subp. 6. Flood plain. The definition of flood plain that is given should enable tire collectors to judge whether or not their dump is located in a flood plain, and thus subject to immersion. Because the definition can easily be applied, it is reasonable.

Subp. 7. Operator. The definition of operator is given to clarify who the operator of a tire dump is. The reference to the statutory definition of tire collector is provided to alert operators to their responsiblity under the statute.

Subp. 8. Owner. The definition of owner is included to alert tire dump owners as to who the Agency will consider an "owner" and thus a responsible tire collector under the statute. As defined, a lessee can be an owner. This is reasonable because the lessee owns a possessory interest in the tire dump, and

is in actual possession of the tire dump.

Subp. 11. Ravine. The definition should provide tire collectors with an easily applied method of determining whether tires are located in a ravine, and thus subject to immersion. Because the definition can easily be applied, it is reasonable.

Subp. 12. Residuals from processing. The definition is needed to clarify a term unique to the waste tire dump abatement rule. Because the definition can easily be applied, it is reasonable.

Subp. 13. Responsible tire collector. The statute requires the Agency to issue requests to the "tire collector responsible for the nuisance." Minn. Stat. § 115A.906, subd. 2 (1984). The definition clarifies who the Agency will consider a tire collector responsible for the nuisance. The tire collector who is responsible must be an owner or operator, as defined in the rule. This is reasonable because the statute defines a tire collector as an owner or operator of a tire dump.

Subp. 14. Shoreland. The definition should provide tire collectors with an easily applied method of determining whether tires are located in a shoreland, and thus subject to immersion. Because the definition can easily be applied, it is reasonable.

Subp. 15. Sinkhole. The definition should provide tire collectors with an easily applied method for determining whether tires are located in a sinkhole, and thus subject to immersion. Because the definition can easily be applied, it is reasonable.

Subp. 18. Tire-derived products. A definition is provided because this

term is unique to the waste tire dump abatement rules. The definition is easily applied and extremely inclusive, and thus reasonable.

Subp. 22. Wetland. Rather than rely entirely on a technical definition of wetland, the reason for the use of the term in the rule was used to generate a more inclusive and easily applied definition. Tires that are filled with water can become mosquito breeding grounds. Thus, tires must be prevented from being covered with standing water. The definition of wetland given in the rule reflects this problem and thus is reasonable. The more technical definition was provided to assist tire collectors who might have knowledge of how their sites would be classified.

3. Pt. 7035.8020 Abatement Procedures.

This part sets out the procedures that the Agency will follow when moving to abate a tire dump, and the criteria that the Agency will use to decide which tire dumps to abate first.

Subp. 2. Abatement priorities. Subp. 2 of this part sets out the criteria that the Agency will use to establish abatement priority. The order of the criteria is derived from the spending priorities established by the Legislature in Minn. Stat. § 115A.912, subd. 2 (1984), and is therefore reasonable. In all cases, the Agency considers the number of waste tires in the tire dump. This is reasonable because risk increases with the number of the waste tires. In ranking tire dumps that pose fire hazards (item B) the Agency is required to consider both the resources that would be threatened by a fire at the tire dump, and the characteristics of the tire dump that increase the chance of fire at the tire dump. In ranking tire dumps that are located in densely populated areas

(item C), the Agency is required to consider the population that might be affected by fire or mosquito infestation of the tire dump, the susceptibility of the tire dump to fire or infestation, and the visual impact of the tire dump. In ranking the remaining tire dumps (item D), the Agency is required to consider the hazardous characteristics of a particular tire dump and the population and resources that are threatened by the tire dump. The criteria that the Agency will use to rank the tire dumps in items B through D are reasonable because they require the Agency to assess the risk of a tire dump both in terms of its potential impact on people and the environment and in terms of its potential to develop a hazardous condition such as a fire or mosquito infestation.

Subp. 3. Request for abatement action. Subp. 3 of this part outlines the content of the request for abatement action that will be issued to responsible tire collectors. The issuance of the document called in the rule the "request for abatement action" is required by Minn. Stat. § 115A.906, subd. 2 (1984). The statute requires that before the Agency can act to abate a tire dump nuisance, it must give the tire collector responsible for the nuisance notice that the tires to be processed and removed constitute a nuisance and demand that the tires be shredded or chipped or removed within a specified period. The document called the request for abatement action gives the responsible tire collector the required notice. As set out in the rule, the document is reasonable in that it will give responsible tire collectors adequate notice of the Agency's intentions. The notice will be in writing, set out the action that must be taken to comply, set out the time in which the tire collector must respond, the Agency's reasons for requesting the abatement, and the actions that

the Agency will take if the requested action is not taken in the requested time. At the time the request for abatement action is issued, the responsible tire collectors will have opportunity to come before the Agency to contest the Agency's right to issue the abatement request to them.

Subp. 4. Requested action. Subp. 4 of this part outlines the actions that will be requested in the requests for response action. Under this subpart, the responsible tire collector will be required to submit an abatement plan meeting criteria outlined in the rule. This requirement is reasonable in that it allows the tire collector to propose a plan for abating the tire dump (within the limits specified in the rule) and does not require the tire collector to capitulate to an Agency abatement scheme that might be burdensome. Under this subpart, the responsible tire collector is also required to agree to implement the abatement plan submitted to the Agency by signing a stipulation agreement with the Agency incorporating the plan. This is reasonable because the signing of such an agreement will provide the Agency and the tire collector with a clear and definite record of what will be done at the site. The signing of such an agreement should work to the benefit of both parties.

4. Pt. 7035.8030 Contents of Abatement Plan.

This part sets out the contents of the abatement plan that a responsible tire collector will be required to submit to comply with the request for abatement action.

Subp. 1. Goal. Subp. 1 of this part sets forth the goal of the Agency in pursuing abatement of the tire dump: to have the waste tires processed and removed. Minn. Stat. § 115A.906, subd. 2 (1984) requires that the Agency give

tire collectors notice that "the tires to be processed and removed" constitute a nuisance. Thus, requiring both processing and removal is justified by the statute. Minn. Stat. § 115A.906, subd. 2 (1984) also states that the Agency must demand of the tire collector that the tires in a tire dump be "shredded or chipped or removed within a specified period. . . ." Because the shredding or chipping of waste tires represents only a partial solution to the problems associated with the storage of large numbers of waste tires (only ending the mosquito hazard), the Agency believes that removal is necessary. Requiring removal alone is also not satisfactory in that removal merely shifts the problem to another location. Thus, the Agency believes that it is only reasonable to require responsible tire collectors both to process and remove the waste tires from the tire dump site.

Subp. 2. Processing On-site. Subp. 2 of this part specifies information that must be included in an abatement plan if a responsible tire collector wishes to process the waste tires at the tire dump site. The information required under this subpart is needed to enable the staff to assess whether the method of abatement proposed by the responsible tire collector will result in the abatement of the tire dump in an environmentally sound manner, and in accordance with Agency technical and operational standards contained in the rule at pts. 7035.8050 and 7035.8060.

The information required in items A through D is needed so that the staff can be assured that the method of processing proposed is technically feasible and environmentally sound, and that the tire derived products produced will have a user.

The information required under item E is reasonable because it is needed to allow the staff to ascertain that the tire dump will be abated in an expeditious manner. The maximum time period for abatement (five years) is reasonable because according to available staff information, no site should take longer than five years to be abated. Requiring the responsible tire collectors to establish abatement increments is reasonable because such increments will aid the Agency and the tire collector in verifying that the site is being abated on schedule.

The information required to be submitted under item F is needed so that the staff can evaluate progress in achieving compliance with the operational and technical standards contained in this rule. It is reasonable to require that the site be brought into compliance with the technical and operational rules within six months because this should, in the majority of cases, be easily achieved. The rule contemplates that there might be exceptions to this time period.

The information required to be submitted by item G is needed to enable the staff to be sure that the records that the responsible tire collector will keep will be adequate to allow the staff to verify that the required processing has been completed.

The information required to be submitted by item H is needed to assist the staff in establishing the reimbursement rate. It is reasonable to require the responsible tire collectors to submit this information as they are the most likely to have it.

Subp. 3. Processing off-site. Subp. 3 of this part specifies the

information that a responsible tire collector will be required to submit if processing the tires off-site.

Items A through C require the responsible tire collector to submit information that the Agency staff will use to assess whether the method of transporting and processing the waste tires is adequate. To make this evaluation, the staff needs to have the individuals who will be transporting the waste tires identified, and the equipment that will be used described. The staff also needs to know where and how the waste tires will ultimately be processed, to ensure that the proposed processing technique is environmentally sound and feasible.

The information that is required to be submitted under items D through G is needed for the reasons stated with regard to subp. 2, items E through H.

Subp. 4. Permitting during abatement. Subp. 4 of this part is needed to respond to those responsible tire collectors who wish to have their sites become permitted waste tire facilities. Requiring these responsible tire collectors to give the Agency notice of this intent is reasonable if the responsible tire collector wishes the Agency to accept an abatement plan designed to allow for continued operation. Requiring the responsible tire collectors to agree to develop a plan for bringing the site into compliance with the applicable rules is reasonable because continued operation of the tire dump site would not otherwise be allowable under the abatement action, and the Agency must have a mechanism for ensuring that permitted status is actually sought and achieved.

Subp. 5. New waste tires. Subp. 5 of this part allows responsible tire collectors to propose an abatement plan that allows for limited site operation.

It is reasonable to require the responsible tire collectors to develop a plan for the processing and removal of new waste tires because the abatement of the site would not otherwise be achieved, and the Agency must have a mechanism for ensuring that the new waste tires are eventually processed and removed.

5. Pt. 7035.8040 Inadequate Response to a Request for Abatement Action.

This part sets out the criteria that the Agency must use in deciding whether a responsible tire collector has failed to respond adequately to an Agency request to abate. It is reasonable to set forth these criteria in the rule to put responsible tire collectors on notice as to what will subject them to a determination of inadequate response and subsequent abatement order, and to narrow and make consistent the things that the Agency must find when deciding that a response has been inadequate.

The ground for the finding of inadequate response set forth in item A (failure to respond in time) is reasonable because the Agency cannot refrain from acting to abate a site for an unlimited period of time. The period of time in which response must be received will be set forth in the request for abatement action sent to the responsible tire collector or collectors. Minn. Stat. § 115A.906, subd. 2 (1984) requires that the Agency specify a period for the abatement action.

The ground for the finding of inadequate response set forth in item B (failure to submit an adequate abatement plan) is reasonable because under this rule, a tire collector may only proceed with abatement pursuant to a stipulation agreement incorporating the abatement plan. The reasonableness of the elements of the abatement plan was discussed above at page 28.

The ground for the finding of inadequate response set forth in item C (failure to sign stipulation agreement) is reasonable because the rule requires that the tire collector sign a stipulation agreement if he/she desires to comply with the Agency request. The reasonableness of the requirement that a stipulation agreement be signed was discussed above at page 28.

The ground for the finding of inadequate response set forth in item D (failure to comply with stipulation agreement) is reasonable because it gives the Agency the option to issue an abatement order, an administrative remedy which allows the Agency to proceed to abate a site, rather than proceeding to court to enforce the agreement.

Subp. 2. Abatement Order. Subp. 2 of this part notifies those who receive an Agency request to abate that failure to respond will subject them to direct Agency action to abate their tire dump. The actions that the Agency states that it will take are reasonable because they are the actions that the Agency is allowed to take under Minn. Stat. § 115A.906, subd. 2 (1985).

6. Pt. 7035.8050 Technical Standards.

Because a tire dump is a nuisance and an environmental hazard, it is reasonable to require that certain minimal standards be complied with during the abatement process. In general, the standards set forth in this section ensure that the danger posed by the tire dump from fires and mosquito infestation will be minimized during the abatement process.

Subp. 2. Indoor storage. Subp. 2 of this part is needed to minimize the hazards posed by the storage of waste tires indoors. The standard referenced in this part is used in all parts of the United States and is generally accepted by

fire protection agencies.

Subp. 3. Location of waste tire piles. The requirements set forth in subp. 3 of this part generally ensure that the waste tires will not be subject to immersion in water. If immersed in water, waste tires may become mosquito breeding grounds. Further, flood plains, sinkholes, shorelands, ravines, and wetlands are environmentally sensitive areas. It is therefore reasonable for the Agency to require a tire collector to remove tires located in these environmentally sensitive areas first.

Subp. 4. Dimensions of waste tire piles. Subp. 4 of this part sets forth standards that will ensure that the danger posed by a fire in the tire dump is minimized. Tire pile size limitations and the requirement that fire lanes be maintained are fire protection agency accepted methods of limiting the spread of fires, and thus are reasonable.

This subpart establishes that the tire collector shall construct fire lanes and waste tire stockpiles that meet the following requirements. Tire piles must have area not greater than 10,000 square feet and a vertical height not greater than 20 feet. A minimum 50-foot fire lane between the stockpiles must be created and maintained free of rubbish, equipment, and vegetation at all times. These requirements are reasonable because they are accepted in other jurisdictions and are needed to enable fire fighters to work efficiently.

Connecticut and New Hampshire have guidelines that tire stockpiles cannot exceed a 100 x 100 foot area. In addition, Connecticut requires a 50 foot fire lane between the piles, and restricts tire pile height to 20 feet.

Two other states which have guidelines for tire stockpiles are New York and

Washington. New York requires that tires cannot be stacked higher than 10 feet. Washington has proposed that individual stockpiles cannot be greater than one-half acre in size with fire lanes proportionate to the height.

The Minnesota Fire Marshal's Office suggested that the use of both portable and stationary equipment to develop a "water curtain" between the piles is needed to absorb heat. A fifty foot fire lane is needed for this equipment. This action may help to contain a fire to a single pile. Although the area restriction is needed so that water needed to dissipate heat can reach all parts of the tire pile, a solid stream of water can be sprayed 100 feet. This does not dissipate much heat. The tire pile size proposed is reasonable because there is also equipment available that can reach 65 to 110 feet both vertically and horizontally.

The Minneapolis Fire Prevention Bureau investigates fire hazards as they become aware of them. The only requirement of the Minneapolis Fire Prevention Bureau is to have at least a 20 foot fire lane between tire piles. A 20 foot fire lane would allow enough space for emergency equipment to enter the area. However, the lane would not be wide enough to prevent the fire from spreading to adjacent piles because of the heat generated from the burning tires. Further, a 20 foot fire lane only allows for one direction of travel.

The height of the tire stockpile is definitely a factor when fighting a fire. If the stockpile is high, the fire will burn like a chimney and spread upward and outward, faster and hotter. The Minneapolis Fire Prevention Code, Article 173, section 27.203 restricts tire pile height to 20 feet. Tire fires are hard to fight because tires are basically waterproof. A high stockpile

further complicates matters because water cannot reach the tires to cool them down adequately, and the tires cannot be separated by hand-held hooks, as such hooks can only reach ten feet.

7. Pt. 7035.8060 Operational Standards.

Because a tire dump is a nuisance and an environmental hazard, it is reasonable to require that certain minimal standards be complied with during the abatement process. In general, the standards set forth in this section are designed to ensure that the tire dump is operated in an environmentally sound manner during the abatement process.

Subp. 2. Burning. Subp. 2 of this part is needed to reduce the danger of fire at the tire dump. By restricting the use of open flames within ten feet of a tire pile, the danger of accidental fire should be reduced.

Subp. 3. Emergency equipment. Subp. 3 of this part is needed to ensure that if a fire does begin at the tire dump, it can quickly be brought under control.

Subp. 4. Emergency communications. Subp. 4 of this part is needed to ensure that, should a tire fire be started, local fire protection authorities can be contacted and will respond as needed.

Subp. 5. Access. Subp. 5 of this part requires that a controlled access road be maintained. The access road must be maintained to ensure that emergency vehicles have access to the site; the road must be controlled to ensure that arsonists or illegal dumpers cannot reach the site when it is not in operation.

Subp. 6. Vegetation. Subp. 6 of this part is needed to minimize fire danger at the tire dump site from potentially flammable dried vegetation.

Subp. 7. Storage limitation. Subp. 7 of this part is needed to ensure that the tires are accessible in the event of a fire, and that other potentially dangerous materials are not stored with the tires.

Subp. 8. Emergency manual. Subp. 8 of this part requires that an emergency manual be prepared. This manual is submitted along with the abatement plan. This manual is needed to ensure that the operating personnel know what to do and who to contact in the event that there is a fire or other emergency with potential off-site impacts at the tire dump. Yearly updating is required. This is reasonable because the dimension and operation of the tire dump will be changing as abatement proceeds. The director can also require an update. This is reasonable because the circumstances affecting the tire dump may change before a year has elapsed, and the director is in the best position to respond to new information affecting the tire dump.

Subp. 9. Emergency notification and reports. Subp. 9 of this part requires that the operator notify the director in the event of a fire or other emergency. This is reasonable because Agency personnel could assist the operator in responding to the emergency. This part also requires the operator to submit a report on the emergency to the director of the Agency. This report is needed to enable the director to request changes in the emergency manual.

Subp. 10. Operational record. Subp. 10 of this part requires that the operator maintain records of operations at the tire dump. The records required under this subpart are needed to enable the Agency staff to assess the progress of the abatement action.

Subp. 11. Inspection. Subp. 11 of this part is needed to ensure that the

Agency staff can assess the progress of the abatement action through inspection of the site.

8. Pt. 7035.8070 Reimbursement.

As stated above at page 20, in researching the various approaches to waste tire abatement employed in other jurisdictions, the staff discovered that when direct enforcement methods were used, arson resulted. When confronted with the cost of removing and processing waste tires, tire collectors preferred to torch the tire piles and risk an arson prosecution. This increased the ultimate cost of cleanup considerably, due to the contamination of the soil with the oily residue emitted from the burning tires.

Faced with the danger of increasing the environmental threat through direct enforcement actions, the Agency staff concluded that the money allocated for waste tire abatement should be used to reimburse tire collectors for the cost of abatement. The Agency has the authority to reimburse persons for the costs of abatement under Minn. Stat. § 115A.906, subd. 4 (1984). This part of the rule sets forth the criteria and limits on reimbursement of tire collectors for the costs of abatement.

Subp. 2. Eligibility of responsible tire collector. Subp. 2 of this part restricts eligibility for reimbursement. Only tire collectors who notified the Agency pursuant to the notice requirements contained in the emergency rules governing waste tire abatement can apply for reimbursement. This is reasonable because only those tire collectors who are in compliance with the law should receive reimbursement. Reimbursement is also restricted to tire collectors who have received an Agency request to abate and who have entered into an agreement

with the Agency incorporating an abatement plan. This is reasonable because abatement funds must be spent on priority sites (i.e. those that have been issued an abatement request) and it would only be reasonable to spend the abatement money on reimbursement that has been conducted in an acceptable manner, pursuant to an approved abatement plan.

Subp. 3. Eligible costs. Subp. 3 of this part restricts the cost that may be reimbursed to the cost of processing and removing waste tires accumulated before the effective date of the emergency rule. This is reasonable because after that date tire collectors were on notice that their sites would need to be abated, and they could have increased the cost of disposal to cover the cost of removal.

Subp. 4. Reimbursement rate. Subp. 4 of this part establishes the reimbursement rate. Essentially, this section of the rule seeks to force tire collectors to abate their dumps in the most cost-effective manner by basing the amount of reimbursement on the most cost-effective method of processing and removing the tires in a particular site. The reimbursement rate will be used to establish a limit on reimbursement. Under pt. 7035.8080, subp. 4, only actual cost will be reimbursed. The tire collector will not be reimbursed, however, for costs over the reimbursement rate.

In subp. 4, the rule sets out a formula that will be used to calculate what removal and processing should cost. For waste tires under a specified dimension (i.e. auto and light truck tires) the formula contains a constant for transportation cost per ton. This constant was derived from analysis presented in the study Scrap Tires in Minnesota. See Appendix 19. It is reasonable to

establish a constant for these tires because the cost of transporting these tires is known and unlikely to vary, and these tires constitute the vast majority of tires in tire piles. For waste tires over the specified dimension, the cost of transportation and processing will be established by the director on a case-by-case basis. The director will use information on the cost of transporting and processing these tires submitted by the tire collector. This is reasonable because the cost of transportation of these tires will vary from site to site and from tire type to tire type.

The cost of transporting the tires is added to the net cost of processing the tires per ton. The cost of processing the tires is established by the director, and will be based on the most cost-effective method of processing available. A limit of $66 per ton is established in the rule. This limit on processing cost was derived from analysis presented in the study Scrap Tires in Minnesota, Appendix 19, and represents the cost of processing a ton of tires assuming no revenue is received for the tire derived product. It is reasonable to establish such a limit in the rule to account for processor monopolies.

The Agency believes the first assumption is a reasonable one. In the Scrap Tires in Minnesota study, the consultant used the figure of 1,000 passenger/light truck tires per load as one of the main assumptions. In making this assumption, the consultant did an analysis of the availability of transportation equipment in the State. The results indicated that 45-foot enclosed trailer vans were favored and in adequate supply. Based on his experience in the waste tire collection and waste tire dump abatement business,

the consultant indicated that, on the average, there are about 1,000 passenger/light truck tires per 45-foot enclosed trailer van. Agency staff discussed this assumption with waste tire collectors and trucking firms. They also indicated that adequate numbers of both 40 and 45 foot enclosed trailer vans are available for hire. They also indicated that 1,000 passenger/light truck tires per load is a realistic assumption for those trailer vans.

The Agency believes the second assumption is a reasonable one. In the study mentioned above, the consultant used an estimated trucking rate of $1.25 per mile in analyzing collection service economics. The consultant contacted several trucking firms and the Minnesota Department of Transportation and determined that tires could be transported from any area in Minnesota at this rate. Staff's discussions with waste tire collectors and trucking firms confirm the consultant's figure.

The Agency believes the third assumption is also a reasonable one. The consultant, who has over 15 years experience developing operational systems for the collection, processing, and marketing of waste tires, indicates that there are approximately 100 waste tires (passenger/light truck tires) per ton.

A limit of $66 per ton is established in the processing cost portion of the formula. This limit on processing costs was derived from analysis presented in the Scrap Tires in Minnesota study, and represents the cost of processing a ton of passenger/light truck tires assuming no revenue is received by the processing facility for the tire derived product. It is reasonable to establish such a limit in the rule to account for processor monopolies.

Subp. 5. Reimbursement total. After the total cost is established, the

rule requires the director to establish the total amount of money that will be spent on a particular site. In arriving at this amount, the director must consider the total amount of money available to the Agency for abatement of tire dumps and the statutory spending priorities. The total is then incorporated into the abatement stipulation, and may not be increased by more than ten percent. Requiring the director to consider the total amount of money available for reimbursement and the spending priorities established by the legislation is reasonable because should there be a shortage of funds, they must be spent as the Legislature intended. Limiting increases in the reimbursement total established is reasonable in that it will give tire collectors incentive to work within the funding limits established. Allowing the ten percent increase is also reasonable, in that it gives the Agency the flexibility to increase the level of reimbursement should initial estimates prove faulty.

9. Pt. 7035.8080 Reimbursement Disbursement.

This part of the rule limits the Agency's disbursement of funds to tire collectors. The limits set out in this part are needed to ensure that the money spent to reimburse tire collectors is actually spent on the cost of the cleanup.

Subp. 2. Findings. Subp. 2 of this part requires that the director determine (before disbursing money) that the portion of the cleanup for which reimbursement is sought was actually completed, that the abatement cost was actually incurred, and that the responsible tire collector is in compliance with all terms and conditions of the stipulation agreement. It is reasonable to require that the director determine that a portion of the cleanup has actually incurred, because this protects the Agency's abatement fund. It is reasonable

to require the director to ensure that the abatement cost was actually incurred, because pursuant to subp. 4 of this part, only actual costs will be reimbursed. It is reasonable to require compliance with the stipulation as a condition to disbursement, because this will give the tire collector incentive to comply with all technical and operational standards during abatement.

Subp. 3. Documentation. Subp. 3 of this part allows the director of the Agency to request additional documentation to make the determinations required in subp. 2. This is needed to ensure that the director has sufficient information to make the required determinations. Because of the importance of protecting the abatement funds, it is reasonable to give the director the power to request this information rather than relying on the information that the tire collector must submit under these rules and the stipulation agreement.

Subp. 4. Disbursement. Subp. 4 of this part establishes that only the actual cost of abatement will be reimbursed. Tire collectors will not receive more than the reimbursement rate and total established in the agreement, however. This is reasonable because it restricts the spending of abatement funds to the actual costs of abatement, and gives the tire collector an incentive to abate the tire dump in the most cost-effective manner.

VI. SMALL BUSINESS CONSIDERATIONS

Minn. Stat. § 14.115, subd. 2 (1984) requires State agencies proposing new rules which affect small businesses to consider the following methods for reducing the impact of the rules on small businesses:

> . . . (a) the establishment of less stringent compliance or reporting requirements for small businesses;
> (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
> (c) the consolidation or simplification of compliance or

> reporting requirements for small businesses;
>
> (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
>
> (e) the exemption of small businesses from any or all requirements of the rule.

Minn. Stat. § 14.115, subd. 2 (1984).

The statute requires agencies to incorporate into proposed rules any of the methods listed in subd. 2 "that it finds to be feasible, unless doing so would be contrary to the statutory objectives that are the basis of the proposed rulemaking." Minn. Stat. § 14.115, subd. 3 (1984).

Minn. Stat. § 115A.906, subd. 1 (1984) states that, ". . . a tire dump unreasonably endangers the health, safety, and comfort of individuals and the public and is a nuisance." Minn. Stat. § 115A.906, subd. 2 (1984) goes on to state that: ". . . the Agency may abate a nuisance by processing and removing the tires." Minn. Stat. § 115A.90, subd. 9 (1984) defines a tire dump as, ". . . an establishment, site, or place of business without a required tire collector or tire processor permit that is maintained, operated, used or allowed to be used for storing, keeping, or depositing unprocessed waste tires. . . ." (Emphasis added.) Minn. Stat. § 115A.902, subd. 2 (1984) states that:

> . . . A permit is not required for:
>
> (1) a retail tire seller for the retail selling site if no more than 500 waste tires are kept on the business premises;
>
> (2) an owner or operator of a tire retreading business for the business site if no more than 3,000 waste tires are kept on the business preimises;
>
> (3) an owner or operator of a business who, in the ordinary course of business, removes tires from motor vehicles if no more than 500 waste tires are kept on the business premises;
>
> (4) a permitted landfill operator with less than 10,000 waste tires stored above ground at the permitted site; or
>
> (5) a person using waste tires for agricultural purposes if the

waste tires are kept on the site of use.

Minn. Stat. § 115A.902, subd. 2 (1984).

The Agency may not abate a tire dump which is exempted from obtaining a permit from the Agency. All of the exemptions listed above pertain to small businesses and reduce the impact of the rules on these businesses. The Agency believes methods for reducing the impact of the rules on small businesses were provided for in Minn. Stat. § 115A.902, subd. 2 (1984).

The deadlines for compliance, the reporting requirements, and the operational standards specified in the proposed rules are general in nature. This allows a tire collector to propose the means for achieving these requirements. The Agency believes that by establishing these general requirements, the proposed rules address the concerns of small business to the maximum extent possible without undermining the goals of Minn. Stat. § 115A.906, subd. 2 (1984).

Section 14.115 assumes that if small businesses are affected by new rules, the impact will be negative. The law requires an agency to mitigate the negative impact if possible. While these proposed rules may have a negative impact, they also provide a substantial positive impact on small businesses. Both impacts will be described.

The proposed rules directly affect small businesses running tire dumps subject to abatement. Although abatement may increase operation costs, the proposed rules reduce the financial impact for tire collectors by providing a partial reimbursement for cleanup costs they will incur. If a tire collector can work efficiently, the actual costs incurred by the tire collector may be

minimal. Many tire collectors will choose to hire cleanup and transportation services to clean up their tire dumps. This should result in increased activity and opportunities for that portion of the small business sector. For waste tire dumps the Agency abates, the Agency will contract for cleanup and transportation services. This too will result in increased activity and opportunities for a portion of the small business sector.

The waste tire processing facilities to which waste tires will be transported will also benefit financially from the added influx of waste tires. The increased number and assured supply of waste tires flowing to these facilities from waste tire dumps will contribute greatly to the overall economic viability and success of these facilities.

The Agency actively sought and encouraged input from the regulated community, including affected businesses, during the drafting of the proposed rules. This activity was discussed in part III of this document. Many comments were received during this process from small businesses, and the rules were drafted to take many of those comments into account.

To reiterate, the Agency believes the proposed rules address the concerns of the small business to the maximum extent possible without undermining the goal of Minn. Stat. § 115A.906, subd. 2 (1984): to abate waste tire dumps.

VII. ECONOMIC CONSIDERATIONS

Minn. Stat. § 116.07, subd. 6 (1984) requires the Agency to consider economic factors in exercising its rulemaking process:

> In exercising all its powers the pollution control agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility

> and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

Minn. Stat. § 116.07, subd. 6 (1984).

As was discussed under part VI, "Small Business Considerations," the proposed rules may have a direct economic impact on businesses owning or running tire dumps subject to abatement action. However, the proposed rules alleviate the economic burden placed on businesses by providing partial reimbursement of the costs of abating the tire dumps.

Many tire collectors may choose to hire and contract for cleanup and transportation services in cleaning up their tire dumps. The proposed rules therefore encourage expansion of businesses involved in such activities. For waste tire dumps that the Agency abates, the Agency would contract for cleanup and transportation services, resulting in increased opportunities.

The proposed rules require that the waste tires be processed. The waste tire processing facilities receiving waste tires will benefit economically from the added influx of waste tires.

A municipality owning or operating a tire dump may be economically impacted by the proposed rules. However, the proposed rules provide a partial reimbursement for cleanup costs incurred by municipalities that own or operate a tire dump. The proposed rules therefore strive to alleviate the economic burden for municipalities owning or operating tire dumps.

The Agency believes the proposed rules address economic concerns to the maximum extent possible without undermining the goal of Minn. Stat. § 115A.906, subd. 2 (1984).

VIII. CONCLUSION

The Agency staff has in this document and its exhibits made its presentation of facts establishing the need for and reasonableness of the proposed waste tire dump abatement rules. This document constitutes the Agency's statement of need and reasonableness for the proposed waste tire dump abatement rules.

Date: 8-1-86

for Thomas J. Kalitowski
Executive Director

IX. LIST OF EXHIBITS

In drafting the proposed rules, the Agency relied on technical documents prepared by a number of sources. The following documents were used by Agency staff in developing these rules and are relied on by the Agency as further support for the reasonableness of the proposed rules. These documents are available for review at the Agency's Public Information Office at 1935 West County Road B2, Roseville, Minnesota 55113.

Agency Exhibit Number	Title
1	Waste Recovery, Inc. 1985. Scrap Tires in Minnesota. Minnesota Pollution Control Agency.
2	National Fire Protection Association. 1980. The Standard for Storage of Rubber Tires. NFPA 231D-1980 Edition.
3	Fish and Wildlife Service. 1979. Classification of Wetlands and Deep Water Habitats of the United States. U.S. Department of the Interior.

APPENDICES

Appendix Number	Title
1	Division of Solid and Hazardous Waste. 1984. Questionnaire on Waste Tire Management Issues. Minnesota Pollution Control Agency. Unpublished.
2	Solid and Hazardous Waste Division. 1984. "Report on Other State Activities Regarding Waste Tire Management." Minnesota Pollution Control Agency. Unpublished.
3	Notice of Intent to Solicit Outside Opinion. October 22, 1984 State Register. 9 S.R. 851. Responses. A. October 24, 1984 Letter from Itasca County B. November 12, 1984 Letter from Indianhead Truck Line, Inc.
4	Letter from Minnesota Pollution Control Agency to Interested Parties dated October 19, 1984, and Responses. A. October 22, 1984 Letter from Sherburne County B. October 25, 1984 Letter from Traverse County C. October 25, 1984 Letter from Martin County D. October 25, 1984 Letter from Scott County E. October 31, 1984 Letter from Washington County F. November 5, 1984 Letter from Polk County G. November 13, 1984 Letter from Becker County H. November 13, 1984 Letter from Rock County I. November 29, 1984 Letter from Goodhue-Wabasha Counties J. February 14, 1985 Letter from Anoka County K. March 15, 1985 Letter from Dakota County
5	Solid and Hazardous Waste Division. 1985. "Issue Statements for Waste Tire Abatement and Collection Rule Development." Minnesota Pollution Control Agency. Unpublished.
6	Memorandum from Minnesota Pollution Control Agency staff to members of Minnesota Pollution Control Agency Board Solid and Hazardous Waste Committee dated June 19, 1985.

7 Memorandum from Minnesota Pollution Control Agency staff to members of Minnesota Pollution Control Agency Board Solid and Hazardous Waste Committee dated July 18, 1985.

8 Letter from Minnesota Pollution Control Agency to Members of the Governor's Special Commission on Scrap Tires dated August 6, 1985.

9 Memorandum from Minnesota Pollution Control Agency staff to members of Minnesota Pollution Control Agency Board Solid and Hazardous Waste Committee dated August 22, 1985.

10 Minnesota Pollution Control Agency Board item dated August 27, 1985.

11 Proposed Emergency Rules Published in the September 23, 1985 State Register. 10 S.R. 687.

12 Comments Received by Minnesota Pollution Control Agency During 25 Day Comment Period.

A. October 15, 1985 Letter from Dakota County
B. October 17, 1985 Letter from the Minnesota Chapter of the National Solid Waste Management Association
C. October 18, 1985 Letter from Briggs and Morgan Law Offices
D. October 18, 1985 Comments Submitted by Bernie Beermann

13 Minnesota Pollution Control Agency Board Item dated October 22, 1985.

14 Notice of Adoption in the December 9, 1985 State Register. 10 S.R. 1311.

15 Memorandum from Minnesota Pollution Control Agency staff to members of Minnesota Pollution Control Agency Board Solid and Hazardous Waste Committee dated May 15, 1986.

16 Memorandum from Minnesota Pollution Control Agency staff to members of Minnesota Pollution Control Agency Board Solid and Hazardous Waste Committee dated July 2, 1986.

17 Memorandum from Minnesota Pollution Control Agency Board staff to Minnesota Pollution Control Agency Board Solid and Hazardous Waste Committee dated July 18, 1986.

18 Division of Disease Prevention and Control. 1979. "The Association of Artificial Containers and LaCrosse Encephacitis Cases in Minnesota." Minnesota Department of Health. Published.

Science Magazine. 1984. "The Tire Trap." Published.

19 Waste Recovery, Inc. 1985. Scrap Tires in Minnesota. pages 119-120, 128-133. Minnesota Pollution Control Agency. Published.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Permanent Rules Governing the
Abatement of Waste Tire Dumps,
Minn. Rules Pts. 7035.8000 to
7035.8080

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Penny Nicklas being duly sworn, deposes and says:

That on the 28 day of August, 1986, at the City of Roseville, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to Adopt Emergency Rules by depositing in the United States mail for first class mailing at said City of Roseville, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Pollution Control Agency for the purpose of receiving notice of the proposed adoption of the rules by the Pollution Control Agency.

Penny Nicklas

Subscribed and sworn to before me this
29 day of August, 1986

CYNTHIA B. GILLINGHAM
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My commission expires 10-3-91

Cynthia B Gillingham
Notary Public

6

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Permanent Rules Governing the
Abatement of Waste Tire Dumps,
Minn. Rules Pts. 7035.8000 to
7035.8080

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minn. Stat. § 14.14 (1985), that their names be placed on file with the Minnesota Pollution Control Agency (MPCA) for the purpose of receiving notice of the proposed adoption of rules by the MPCA is accurate and complete as of 4:30 P. m., this 28 day of August, 1986.

LaRenne Bengtson

Subscribed and sworn to before me this
29 day of August, 1986

Cynthia B Gillingham
Notary Public

CYNTHIA B. GILLINGHAM
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My commission expires 10-3-91

4360.1100 SEED GRANT REPORTING REQUIREMENTS.

A project sponsor or fiscal agent shall submit to the council quarterly reports, an expenditure report, a final expenditure report, a final project evaluation report, a brief narrative report, a final audit, and a publicity report containing the same material and subject to the same requirements as the reports required in part 4360.0900, except that the reports required by this part shall contain information on and be submitted for the purpose of seed grants.

4360.1200 INCORPORATION BY REFERENCE.

The Office of Management and Budget's Standard Industrial Classification Manual (Manual), published by the Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, is adopted by incorporation by reference. The Manual was last published in 1977, is not subject to frequent change. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock Number 4101-0066), and the State Law Library, 117 University Avenue, St. Paul, Minnesota 55155.

Pollution Control Agency

Proposed Permanent Rules Relating to Waste Tire Dump Abatement

Notice of Intent to Adopt Permanent Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) intends to adopt without a public hearing, in accordance with the provisions of Minn. Stat. §§ 14.22 to 14.28 (1984, permanent rules governing the abatement of waste tires dumps.

The proposed rules, if adopted, will provide for the administration of the MPCA's waste tire dump abatement program. The proposed rules provide a procedure by which MPCA will take action to abate waste tire dumps in the State. The proposed rules are authorized by Minn. Stat. § 115A.914, subd. 1 (1984). A copy of the proposed rules is published below. One free copy of the proposed rules is available upon request from the MPCA. Please contact the person whose name and address appears below.

The MPCA has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon by the MPCA to support the proposed rules. Copies of the Statement of Need and Reasonableness and of the proposed rules are available and may be obtained by contacting:

Patrick Carey
Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: 612/296-7321

Copies of the proposed rules and of the Statement of Need and Reasonableness may also be viewed at the MPCA regional offices at the following locations:

Duluth Region
Duluth Government Center
320 West Second Street
Duluth, Minnesota 55802
218/723-4660

Brainerd Region
304 East River Road
Suite 3
Brainerd, Minnesota 54601
218/828-2492

Detroit Lakes Region
714 Lake Avenue
Suite 220
Detroit Lakes, Minnesota 56501
218/847-1519

Marshall Region
RLC Building
109 South Fifth Street
Marshall, Minnesota 56258
507/537-7146

Rochester Region
2116 Campus Drive Southeast
Rochester, Minnesota 55901
507/285-7343

Interested parties have until 4:30 p.m. on October 1, 1986 to submit comments on the proposed rules. Comments should be submitted to Patrick Carey at the address stated above. The proposed rules may be modified if the data and views received by the

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MPCA before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed rules.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the comment period, a public hearing will not be held. In the event that a public hearing is required, the MPCA will proceed according to the provisions of Minn. Stat. §§ 14.131 to 14.20 (1984). If a person desires to request a public hearing, the MPCA requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the rules by the MPCA Board, the rules as proposed, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be sent to the Attorney General for review as to form and legality. Persons who wish to be advised of the submission of this material to the Attorney General, or wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Patrick Carey at the address previously stated.

Dated 15 August 1986

Thomas J. Kalitowski
Executive Director

Rules as Proposed (all new material)

7035.8000 SCOPE.

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

7035.8010 DEFINITIONS.

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

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

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

Subp. 4. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 19. **Tire dump.** "Tire dump" has the meaning given in Minnesota Statutes, section 115A.90, subdivision 9.

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

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

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

7035.8020 ABATEMENT PROCEDURES.

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

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

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

B. Second priority: tire dumps posing fire hazards. In ranking tire dumps that are fire hazards, the agency shall consider the number of waste tires in the tire dump; the proximity of the tire dump to population concentrations; the proximity of the tire dump to natural resources that would be affected by a fire at the tire dump; and the characteristics of the tire dump that might make it susceptible to fire, including but not limited to the absence of fire lanes, the lack of emergency equipment, the presence of easily combustible materials, and the lack of site access control.

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

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

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

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

7035.8030 CONTENTS OF ABATEMENT PLAN.

Subpart 1. **Goal.** The abatement of a tire dump subject to an agency abatement action shall be accomplished through the processing and removal of the waste tires present in the tire dump. Abatement action must be in accordance with a plan that meets the

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criteria in this part. If approved by the director, a plan that meets the criteria in this part shall be incorporated into a stipulation agreement signed by the responsible tire collector or collectors and the agency.

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

A. A description of the processing techniques.

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

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

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

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

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

G. A description of how records on the number of waste tires processed and removed will be maintained.

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

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

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

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

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

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

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

F. A description of how records on the number of waste tires removed will be maintained.

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

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

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

7035.8040 INADEQUATE RESPONSE TO A REQUEST FOR ABATEMENT ACTION.

Subpart 1. **Inadequate response.** The agency shall determine if a responsible tire collector has failed to make an adequate response to a request for abatement action. The agency may find that response has been inadequate if:

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

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

C. the responsible tire collector has failed to sign a stipulation agreement incorporating the abatement plan approved by the director; or

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

Subp. 2. **Abatement order.** If the agency determines that a responsible tire collector has failed to make an adequate response to a request for abatement action, the agency may issue a tire dump abatement order to the responsible tire collector. A tire dump abatement order may provide for entering the property where the tire dump is located, taking the waste tires into public custody, and arranging for their processing and removal.

7035.8050 TECHNICAL STANDARDS.

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

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

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

Subp. 4. **Dimensions of waste tire piles.** No individual waste tire pile shall have an area greater than 10,000 square feet or a vertical height greater than 20 feet. A 50-foot fire lane shall be placed around the perimeter of each waste tire pile. This fire lane shall be maintained free of rubbish, equipment, and vegetation at all times.

7035.8060 OPERATIONAL STANDARDS.

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

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 10. **Operational record.** The operator of the tire dump shall maintain records of the number of waste tires received at the tire dump, stored at the tire dump, and shipped from the tire dump. Records shall also be kept of the amount of tire-derived products received, stored, or shipped from the tire dump. At the completion of an abatement increment, the responsible tire collector shall submit to the director a record of the approximate number of waste tires remaining in the tire dump; the amount of tire-derived products stored at the tire dump; and the number of waste tires or amount of tire-derived products received at the tire dump and shipped from the tire dump during the abatement increment. For waste tires and tire-derived products shipped to another location, the date and the amount shipped must be included.

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

7035.8070 REIMBURSEMENT.

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

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

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

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

$$R = \underbrace{(M \times \$0.125)}_{\text{(transport cost)}} \quad \underbrace{+ \text{ or } - PC}_{\text{(processing cost)}}$$

Where R is the potential reimbursement rate in dollars per ton; M is the miles needed to transport the waste tires to the processing facility; the figure $0.125 represents the cost of transporting a ton of waste tires one mile; and PC is the net dollar cost per ton to the responsible tire collector of processing these waste tires. If the responsible tire collectors processing revenues exceed processing costs, for example, there is no net cost but instead a net profit, the amount of revenue shall be subtracted from the transportation cost portion of the formula. PC may not exceed $66 per ton.

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

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

7035.8080 REIMBURSEMENT DISBURSEMENT.

Subpart 1. **Request for disbursement.** After the completion of an abatement increment, the responsible tire collector may request the director for reimbursement of the costs incurred during that abatement increment.

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

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

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

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

Subp. 3. **Documentation.** The director may request the responsible tire collector to submit any documentation the director deems necessary to enable the director to make the determinations in subpart 1.

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

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Commerce

Adopted Rules Relating to Cancellation of Commercial Policies

The rules proposed and published at *State Register*, Volume 10, Number 50, pages 2448-2449, June 9, 1986 (10 S.R. 2448) are adopted as proposed.

Department of Commerce

Adopted Rules Relating to Cosmetology

The rules proposed and published at *State Register*, Volume 10, Number 44, pages 2201-2211, April 28, 1986 (10 S.R. 2201) are adopted with the following modifications:

Rules as Adopted

2640.0100 DEFINITIONS.

Subp. 18. ~~Office~~ **Department.** ~~"Office"~~ "Department" means the Department of Commerce.

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CERTIFICATE OF THE

MINNESOTA POLLUTION CONTROL AGENCY

RESOLUTION ADOPTING THE RULE

I, Duane Dahlberg, do hereby certify that I am a member and the chairman of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency, duly and properly called and held on the 28th day of October, 1986, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> BE IT RESOLVED, that the Minnesota Pollution Control Agency (MPCA) hereby approves and adopts Minn. Rules pts. 7035.8000 to 7035.8080, permanent rules governing waste tire dump abatement as attached, pursuant to the authority vested in the MPCA by Minn. Stat. § 115A.914, subd. 1 (1985).
>
> BE IT FURTHER RESOLVED, that prior to publishing the permanent rules as adopted in the State Register, the Executive Director is authorized to make any form changes in the permanent rules that the Revisor of Statutes requires the MPCA to make in order to obtain the Revisor's Certificate as required by Minn. Stat. § 14.07, subd. 2 (1984).
>
> BE IT FURTHER RESOLVED, that the MPCA adopts the attached Findings of Fact and Conclusions and Order Adopting Permanent Rules, and that the Chairperson and the Executive Director are hereby authorized to execute the above-named documents on behalf of the MPCA.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28th day of October, 1986.

Duane A Dahlberg
Duane Dahlberg
Chairperson

Keith E. Langmo
Attest by one other Board member

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Permanent Rules Governing the Abatement of Waste Tire Dumps, Minnesota Rules Parts 7035.8000 to 7035.8080

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came before the Minnesota Pollution Control Agency (Agency) for decision on the 28th day of October, 1986. Having afforded all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, having considered the written comments submitted to the Agency, and having considered all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact and Conclusions.

FINDINGS OF FACT

1. The Agency has the authority to adopt rules governing the abatement of waste tire dumps pursuant to Minn. Stat. § 115A.914, subd. 1 (1984).

2. On August 12, 1986, the Order for Publication and Mailing of Notice of Intent to Adopt Permanent Rules, authorizing publication and mailing of the proposed permanent rules, was executed by the Executive Director of the Agency pursuant to the authority granted to him by resolution on August 12, 1986.

3. The Agency published its notice of intent to adopt the above-captioned permanent rules, together with the proposed permanent rules, in the State Register on September 1, 1986,

(11 S.R. 383).

4. On August 29, 1986, the Agency gave the same notice by United States mail to all persons having registered their names with the Agency pursuant to Minn. Stat. § 14.14 (1984).

5. A Statement of Need and Reasonableness in support of the proposed rule was prepared before the notice was mailed or published. The Statement of Need and Reasonableness was available to the public.

6. The Agency's Notice of Intent to Adopt Permanent Rules afforded all interested persons 30 days to submit data and views on the proposed permanent rules. The notice was in all respects in compliance with the requirements of Minn. Stat. § 14.22 (1984).

7. The 30-day comment period, as set out in the notice, expired on October 1, 1986.

8. Written comments were received during the comment period from Mr. Bernard Beermann and four individuals representing Rubber Research Elastomerics, Inc.

9. The Agency has reviewed the comments received on the proposed permanent rules and finds that no modification of the rule as proposed is warranted.

10. The Agency makes the following modifications based on suggestions received from the Staff to clarify the language of the proposed rule:

7035.8040 subpart 1

Modification:

~~The agency may find that response has been inadequate if~~ The following constitute grounds for the agency to find that a response has been inadequate:

. . .

Justification:

This change makes the language of the rule consistent with language used in other agency rules, and emphasizes that the criteria to be considered by the agency limit agency discretion to act. Because the new language does not alter the effect of the rule as proposed, the change is not a substantial change.

7035.8040 subpart 2

Modification:

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

Justification:

This change is made to make the language of the rule consistent with language used in other agency rules, and to emphasize that the agency will not issue an abatement order unless the agency has made the required determination. The modification also clarifies the content of the abatement order when agency abatement is authorized. Because the new language does not alter the effect of the rule as proposed, the change is not a substantial change.

7035.8070 subpart 1

Modification:

The agency ~~may~~ shall reimburse a responsible tire collector according to the criteria and limits in this part and as set out in the stipulation agreement incorporating the abatement plan.

Justification:

This modification is needed to avoid the appearance of agency discretion. Because the new language does not alter the effect of the rule as proposed, the change is not a substantial change.

7035.8070 subpart 4

Modification:

If the responsible tire collector's processing revenues exceed processing costs, ~~for example~~ in other words, there is no net cost but instead a net profit, the amount of

revenue shall be subtracted from the transportation cost portion of the formula. PC ~~may~~ shall not exceed $66 per ton.

Justification:

The first change is made to correct a typographical error. The second change is made to clarify the language. The last change is made to clarify that the limit is mandatory. Because the new language does not alter the effect of the rule as proposed, these changes are not substantial.

7035.8080 subpart 3

Modification:

The ~~director may request the~~ responsible tire collector ~~to~~ shall submit to the director ~~any~~ documentation the director ~~deems necessary~~ reasonably requires to enable the director to make the determinations in subpart 1.

Justification:

This modification is needed to clarify that the responsible tire collector has a mandatory duty to submit to the director information that the director needs to calculate the amount of money to be disbursed to the responsible tire collector as reimbursement for abatement activities. Because the new language does not alter the effect of the rule as proposed, the change is not a substantial change.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this matter.

2. The Agency has statutory authority to adopt the proposed permanent rules.

3. The Agency published and served due, timely and adequate notice of its intent to adopt the proposed permanent rules.

4. The Agency has complied with all relevant substantive and procedural requirements of the Minnesota statutes and rules. Because the Agency did not receive requests for a public hearing from 25 or more persons, no hearing on the proposed rules is required.

5. The modifications to the proposed permanent rules are supported by the data and views submitted to the Agency and do not result in a substantial change because they affect no new classes of persons and introduce no significant new subject matter.

6. The above-captioned rules are needed and reasonable.

MINNESOTA POLLUTION CONTROL AGENCY

Duane A Dahlberg

DUANE DAHLBERG
Chairperson

Michael Robertson

for THOMAS J. KALITOWSKI
Executive Director

Dated: October 28, 1986

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Permanent Rules Governing the Abatement of Waste Tire Dumps, Minnesota Rules Parts 7035.8000 to 7035.8080

ORDER ADOPTING RULES

Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled permanent rules was published in the State Register on Monday, September 1, 1986, and was sent by United States mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. § 14.14 (1984) on August 29, 1986. Having afforded interested and affected persons an opportunity to submit comments for 30 days after the publication date of notice, having reviewed and considered the comments, and having determined the need for and reasonableness of the above-captioned permanent rules,

NOW, THEREFORE, IT IS ORDERED, that the proposed permanent rules identified as "Proposed Permanent Rules Relating to Waste Tire Dump Abatement," Minn. Rules pts. 7035.8000 to 7035.8080, as published in 11 State Register 383 (September 1, 1986) are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 115A.914, subd. 1 (1984) with the following modifications:

Proposed rule part 7035.8040 subpart 1 is amended to read as follows:

~~The agency may find that response has been inadequate if~~ The following constitute grounds for the agency to find that a response has been inadequate:

Proposed rule part 7035.8040 subpart 2 is amended to read as follows:

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

Proposed rule part 7035.8070 subpart 1 is amended to read as follows:

The agency ~~may~~ shall reimburse a responsible tire collector according to the criteria and limits in this part and as set out in the stipulation agreement incorporating the abatement plan.

Proposed rule part 7035.8070 subpart 4 is amended to read as follows:

Modification:

If the responsible tire collector's processing revenues exceed processing costs, ~~for example~~ in other words, there is no net cost but instead a net profit, the amount of

revenue shall be subtracted from the transportation cost portion of the formula. PC ~~may~~ shall not exceed $66 per ton.

Proposed rule part 7035.8080 subpart 3 is amended to read as follows:

The ~~director may request the~~ responsible tire collector ~~to~~ shall submit to the director ~~any~~ documentation the director ~~deems necessary~~ reasonably requires to enable the director to make the determinations in subpart 1.

MINNESOTA POLLUTION CONTROL AGENCY

Duane A Dahlberg

DUANE DAHLBERG
Chairperson

THOMAS J. KALITOWSKI
for Executive Director

Dated: OCT 28 1986

8-29-86

Please send State Draft
of Need and Reasonableness
and proposed rules
governing abatement of waste
tire dumps.

Bernie Beermann
6900 Dixie Ave E
Inver Grove Hts, Minn.
55075.

Also, I request it go to
public hearing, because
of transporter provisions.

Thank You.

SEP 1986

Sinclair Lewis
USA 14

RECEIVED
Post Card
SEP 03 1986
SEP 3 1986
MPCA, SOLID & HAZ.
WASTE DIVISION

Patrick Carey
Minnesota Pollution
Control Agency
Solid + Hazardous Waste
1935 W Cty Rd B2
Roseville, Minn. 55113

RUBBER RESEARCH ELASTOMERICS, INC.
824 ninth ave. s. e. • minneapolis, minnesota 55414-1392 • (612) 378-9647

September 29, 1986

RECEIVED
SEP 30 1986
MPCA, SOLID & HAZ.
WASTE DIVISION

Mr. Patrick F. Carey
Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B-2
Roseville, Minnesota 55113

RE: Request for a public hearing on the proposed permanent rules governing waste tire dump abatement.

Dear Mr. Carey:

The undersigned officers at Rubber Research Elastomerics, Inc. hereby request a public hearing to reconsider the proposed permanent rules governing waste tire dump abatement, based on the following objections to Section 7035.8070, Reimbursement, which are presented in greater detail in the attached correspondence.

First, we disagree with the conclusions set forth on page 22 of the Statement of Need and Reasonableness for these Rules which states in part that "an incentive is needed to avoid the use of arson as a solution to tire dump liabilities". The State of Minnesota should never stoop to the position where "blackmail" is the only rational basis for adopting rules, especially when three other state agencies have provided the bulk of the financing for a scrap tire disposal facility that will accept tires for free.

Second, as we have pointed out in previous correspondence, we believe that this system of reimbursement is inherently flawed in that it is too costly and is available only to those individuals who have already received tipping fees for these tires and who are also directly responsible for the problem of tire piles dotting the landscape. This system of reimbursement is too costly to the State of Minnesota because it allows the owners of the tire dumps to set the standard for reimbursement, rather than permitting competitive bidding for the removal of the tires.

Finally, we believe that the proposed permanent rules represent two steps

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backward from the emergency rules in that the proposed present rules provide for reimbursement of up to sixty six dollars per ton while the emergency rules provided for "only" ten dollars per ton. As you will note from the attached correspondence, we thought the ten dollar figure was too high.

The above mentioned comments are offered in the spirit of cooperation with the MPCA and the State of Minnesota towards funding the most cost effective means of solving the tire disposal problem in the State. To this end, we will begin accepting all types of tires, free of charge at our Babbitt TIRECYCLE® facility on November 1, 1986.

Very truly yours,

Fred J. Stark, Jr.
President and
Chief Executive Officer

Martin E. Paquay
Chief Financial Officer

F. John Stark, III
Chief Operating Officer and
General Counsel

Arthur Leighton
Vice President, Finance

FJS:ap
Enc.

RUBBER RESEARCH ELASTOMERICS, INC.
824 ninth ave. s. e. • minneapolis, minnesota 55414-1392 • (612) 378-9647

RECEIVED
SEP 30 1986
MPCA, SOLID & HAZ.
WASTE DIVISION

August 11, 1986

Mr. Patrick F. Carey
Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B-2
Roseville, MN 55113

Re: Proposed Permanent Rules
Relating to Waste Tire
Dump Abatement

Dear Mr. Carey,

We have monitored the evolution of the above-mentioned Rules with great interest and some dismay. We believe that the final draft of those Rules represent an appreciation of the factors that have led to the creation of the tire dump problem in Minnesota; however, they miss the mark in terms of providing a solution to the problem. In short, Section 7035.8070, Reimbursement, serves to reward the very individuals who not only created the tire dump problem, but also and more importantly have already profited from the creation of this problem.

It is well settled that owners of tire dumps stay in business by charging a tipping fee for the deposit of tires on their property. Thus they have profited from the creation of a nuisance. They should not be allowed to profit again from the clean-up of the same nuisance that they created. Although, the Rules stipulate that the Reimbursement Rate shall not afford the Tire Collector a profit, it is also well settled that Tire Collectors have helped write the book on the use of "shell corporations" and we doubt that this policy can be enforced.

We propose as an alternative that those who have created this problem be precluded from being reimbursed by the State for cleaning it up. Instead, Reimbursement should only be available to outside contractors who would submit competitive bids.

As a footnote to the above, Rubber Research's Babbitt Tirecycle Facility is scheduled to be operational in November of this year







and at that time, we will begin accepting passenger, truck and off the road tires at no charge.

Very truly yours,

Fred J. Stark, Jr.
President and
Chief Executive Officer

FJS:gls

cc: Thomas J. Kalitowski
Governor Rudy Perpich

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BRIGGS AND MORGAN

PROFESSIONAL ASSOCIATION

2200 FIRST NATIONAL BANK BUILDING

SAINT PAUL, MINNESOTA 55101

TELEPHONE (612) 291-1215

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October 18, 1985

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MPCA, SOLID & HAZ.
WASTE DIVISION

Mr. Patrick F. Carey
Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B-2
Roseville, MN 55113

Re: Comments on the Proposed Emergency Rules Relating to Waste Dump Abatement submitted on behalf of Rubber Research Elastomerics, Inc.

Dear Mr. Carey:

This letter contains our comments on the Proposed Emergency Rules Relating to Waste Tire Dump Abatement (parts 7035.8000-7035.8160). These comments are offered in the spirit of cooperation with the Agency's effort to design a program for the cost-effective and environmentally safe abatement of waste tire dumps. We are seeking modifications in the proposed rules that would provide for competitive bids for the abatement of waste tire dumps.

Rubber Research Elastomerics is a Minnesota corporation that has developed a technology which can remold waste tires into usable rubber products in an environmentally sound manner. Three Minnesota state agencies (the Waste Management Board, the Department of Energy and Economic Development, and the IRRRB) have evaluated this technology, approved the project, and committed funds to Itasca County and the City of Bovey for construction of a waste tire processing facility. The facility is being built by Itasca County and will bring a needed new industry to Northern Minnesota. We anticipate that the facility will be operational in less than a year and that it will have the capacity to process up to 60 million pounds of waste tires per year.

We are commenting on the proposed rules because of our desire to compete for the disposal and processing of the waste tires in the dumps to be abated. Our processing method is environmentally sound, and we expect to be able to dispose of the waste tires more cheaply than other processors. In addition to providing Rubber Research with a business opportunity, the rule changes we are recommending should increase the cost-effectiveness of the state's abatement program, reduce the potential for publicly subsidized windfalls to tire collectors and processors, and provide related benefits to the state.

Legislative Intent of the Waste Tire Act

The Minnesota State Legislature recognized that the improper disposal and accumulation of waste tires in Minnesota poses a significant threat to the general welfare of the public. Accordingly, it passed legislation in 1984, See Minn. Stat. § 115A.90 et. seq., to address the problem of (1) properly disposing of waste tires See Minn. Stat. § 115A.904 and (2) cleaning up "waste tire dumps" that have been created by tire collectors who customarily have charged individuals between $1 and $2 per tire for depositing the waste tires in these tire dumps. Tire collectors have not only lacked an environmentally and economically feasible means of disposing of the waste tires but they also have exacerbated the waste tire problem by storing the waste tires improperly and commingling them with other hazardous and nonhazardous waste. The goal of the legislature in this legislation was to foster an expeditious, economical, and environmentally sound method of dealing with the waste tire problem on a state-wide basis. The legislative intent was not to give the tire collectors or the owners of the waste tire dumps preferential treatment in obtaining a state subsidy or to provide them with a windfall profit for their accumulation of waste tires.

The Minnesota statutes summarized below do not mandate nor imply that the monies appropriated for waste tire dump abatement should be initially targeted toward the tire collectors who are unable to economically dispose of their waste tires. The proposed rules violate the legislative intent because they initially target state money toward the tire collectors.

Minn. Stat. § 115A.906 (1984) provides generally that an existing tire dump that unreasonably endangers the health,

safety and comfort of individuals and the public is a nuisance and the Pollution Control Agency may abate the nuisance by processing and removing the tires. Before taking any action to abate the nuisance, however, the agency shall give notice to the tire collector responsible for the nuisance that the tires to be processed and removed constitute a nuisance and demand that the tires be shredded or chipped or removed within a specific period. This statute does not suggest that the tire collector should receive a subsidy for the abatement effort. The failure of the tire collector to take the required action within the specified period shall result in the issuance of an abatement order to abate the nuisance and this order may include entering the property where the nuisance is located, taking the tires into public custody and providing for their processing and removal.

Minn. Stat. § 115A.912 provides generally that monies accumulated from the $4 motor vehicle transfer fee that are appropriated to the Pollution Control Agency for waste tire collection may be spent for the elimination of health and safety hazards of tire dumps and collection sites, tire dump abatement, collection, and clean up of waste tires. It goes on to say that the agency should apply the following criteria to establish priorities in the allocation of this money: (1) tire dumps or collection sites determined by the agency to contain more than 1,000,000 tires; (2) abatement of fire hazard nuisances; (3) abatement of nuisance in densely populated areas; and (4) collection and clean up of waste tires including abatement of tire dumps. This statute does not give tire collectors any priority for receipt of the funds appropriated.

A Competitive Approach to Waste Tire Dump Abatement

The proposed rules take a regulatory approach to state reimbursement for waste tire dump abatement. Once a request for abatement action has been issued, the tire collector and only the tire collector can propose a plan for processing the waste tires. The level of state subsidy is determined by analysis of a financial pro forma and actual revenue and expenditure figures submitted by the tire collector. There is no opportunity for competitive bids or the consideration of potentially lower cost processing alternatives unless the tire collector fails to prepare an abatement plan, responds inadequately to the abatement request or for some other reason does not reach agreement with the agency on an abatement plan.

In contrast, the process we recommend would rely on competitive bids rather than a regulatory review of financial

data to establish and control the level of state subsidy. Once a request for abatement action is issued, the tire collector would have the opportunity to propose an abatement plan that would not require a state subsidy or reimbursement. If an abatement plan without a state subsidy could not be agreed upon, the agency would then take custody of the tires, develop bid specifications, and request proposals for processing and disposal of the tires. The tire collector and others could submit proposals. The level of state subsidy would be determined by the cost to the state included in the proposals, and detailed financial analysis of the ongoing processing operation would not be required.

Advantages of the Competitive Approach

1. Lower cost for the state - Competitive bids would permit the state to evaluate and choose among different alternatives for the abatement of waste tire dumps. This could result in substantial cost savings compared to the proposed process where the tire collector's abatement plan is reviewed and the level of subsidy set without any comparison or consideration of potentially lower cost alternatives.

2. Reduced potential for windfalls - Although the tire collector could compete for the contract to process the tires, the level of profits would be limited by competitive market forces. In contrast, the proposed process would rely on state agency review of financial data to establish the level of state subsidy and limit profits. The complexity of the financial data, the limited number of available industry comparisons and the lack of competition offer a significant potential for windfalls for the tire collector and/or processor. "Creative" accounting, or even collusion between the tire collector and processor to inflate processing costs could make the windfalls very difficult for state agency staff to detect.

3. Simplified administration - The competitive approach would eliminate the ongoing oversight, analysis of complex financial data, and related administrative work that would otherwise be necessary to establish the reimbursement amount throughout the life of the abatement project. With the competitive approach, the agency's responsibility would be limited to more straightforward monitoring of performance and contract management.

4. Consistency with state economic development efforts - A competitive bidding process could provide opportunities for Minnesota businesses and would be consistent with the state's efforts to stimulate innovation and private industry. By comparison, the proposed rules would limit consideration to waste tire processing proposals presented by the tire collectors. The rules could, in fact, provide tire collectors with a competitive advantage over other business that have received state assistance for economic development purposes.

We urge the agency to modify the proposed emergency rules to require competitive bids for waste tire dump abatement where any state subsidy or reimbursement is involved. Our specific suggestions for modifications to the rules are provided below.

RECOMMENDED MODIFICATIONS TO THE PROPOSED EMERGENCY RULES RELATING TO WASTE TIRE ABATEMENT

FIRST PROPOSED MODIFICATION

PROPOSED EMERGENCY RULE SECTION: (Not addressed by proposed emergency rules)

REASON FOR COMMENT: The proposed emergency rules should reflect the legislative intent of the Waste Tire Act to eliminate the health and safety hazards of tire dumps and collection sites in the most expeditious, economical and environmentally sound manner possible.

PROPOSED CHANGE: The proposed emergency rules should be amended by adding a Rule number 7035.8005 (Emergency) **PURPOSE** to read: "The purpose of the waste tire dump abatement program is to eliminate the health and safety hazards of tire dumps and collection sites in the most expeditious, economical and environmentally sound manner possible."

SECOND PROPOSED MODIFICATION

PROPOSED EMERGENCY RULE SECTION: 7035.8010 Definitions

REASON FOR COMMENT: To define the term "abatement contractor."

PROPOSED CHANGE: Add a Subpart to read: "Abatement Contractor. Abatement contractor means a person who contracts with the agency to abate a waste tire dump."

THIRD PROPOSED MODIFICATION

PROPOSED EMERGENCY RULE SECTION: 7035.8050, Subpart 2, Paragraph B.

REASON FOR COMMENT: This change would prohibit the tire collector from receiving state money for abatement of the tire dump without competitive bidding.

PROPOSED CHANGE: In Subpart 2, paragraph B, amend the first sentence by adding the underlined language: "The tire collector must submit an abatement plan to the director within the time specified in the request for abatement action stating a proposal for cleaning up the tire dump without state money."

FOURTH PROPOSED MODIFICATION

PROPOSED EMERGENCY RULE SECTION: 7035.8080

REASON FOR COMMENT: The proposed change would prohibit a tire collector who has been issued an abatement order from making the tire dump problem worse by taking new waste tires. A tire collector subject to an abatement order should not be allowed to profit from the collection of additional waste tires. The proposed change also authorizes the agency to arrange for processing and removal of the tires by contracting with an abatement contractor.

PROPOSED CHANGE: Delete the existing language and insert new language to read: "When the agency makes a determination of inadequate response or revokes without reissuance an agency waste tire facility permit, the agency may issue a tire dump abatement order to the responsible tire collector. A tire dump abatement order shall provide that no additional waste tires may be accepted at the tire dump subject to the abatement order. In addition, the abatement order may provide for entering the property where the tire dump is located, arranging with an abatement contractor for the processing and removal of the waste tires as described in part 7035.8085, and if necessary taking tires into public custody."

FIFTH PROPOSED MODIFICATION

PROPOSED EMERGENCY RULE SECTION: (Not addressed by proposed emergency rules)

REASON FOR COMMENT: This section requires competitive bidding and should result in a lower per ton cost to the state of Minnesota for the abatement of waste tire dumps.

PROPOSED CHANGES: Add a new part 7035.8085 (Emergency) REQUIRED PUBLIC BIDDING FOR TIRE DUMP ABATEMENT USING STATE MONEY to read: "When the agency arranges for the processing and disposal of waste tires after an abatement order has been issued, the agency shall develop specifications, advertise for competitive bids and award a contract as provided in Minn. Stat. Chapter 16B. The agency must notify the tire collector in a timely manner by registered mail of the specifications for the bids and of his eligibility to submit a bid. The net cost to the state for processing and disposal of waste tires shall not exceed $10 per ton. The agency may require in the contract reports and other information from the contractor regarding progress on the abatement project, end use of the waste tires, and on other information needed to determine compliance with the contract."

SIXTH PROPOSED MODIFICATION

PROPOSED EMERGENCY RULE SECTION: 7035.8160

REASON FOR COMMENT: With a competitive bidding process, this section on reimbursement is no longer necessary. State cost and payments to the contractor will be determined by the contract. The Agency may, of course, want to consider some of these factors in evaluating proposals from contractors.

PROPOSED CHANGE: Delete part 7035.8160

We appreciate the opportunity to present these comments. We will be available to respond to questions at the October 22 meeting. The specific suggestions for changes to the proposed rules that we have provided above are one way to establish a competitive bidding process. There may be other ways to accomplish the same objective.

Very truly yours,

Tim Flaherty

Tim Flaherty

In the Matter of the Adoption of the Rule of the Minnesota Pollution Control Agency Governing Abatement of Waste Tire Dumps, Minn. Rules pts. 7035.8000 to 7035.8080

DECLARATION OF COUNSEL

I, Ann E. Cohen, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0696.

Ann E. Cohen
Special Assistant
Attorney General

Dated: November 17, 1986

Notice of intent

More than 30 days were given for the comment period ~~10-1~~ 8-15 to 10-1

Missing sentences:

"Comment is encouraged"

What Comment should identify

Small Bus. Stmt.

Expenditure of more

~~Statement~~ of Need + Reasonableness

Definitions are not individually explained.

There ~~are~~ were changes made from the Proposed Rule to the Adopted Rule

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

November 17, 1986

RECEIVED
NOV 20 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Mr. Mike Miles
Assistant Attorney General
Office of the Attorney General
Administration Building
St. Paul, Minnesota 55155

Re: Proposed Adoption of Rules of the Minnesota Pollution Control Agency Governing the Abatement of Waste Tire Dumps.

Dear Mr. Miles:

On October 28, 1986, the Minnesota Pollution Control Agency adopted rules governing the Abatement of Waste Tire Dumps. Enclosed for your review are the following:

1. Notice of Solicitation of outside opinion.

2. Certificate of the Minnesota Pollution Control Agency's authorizing resolution.

3. Copy of the proposed rule with Revisor's certificate attached.

4. Notice of intent to adopt a rule without a public hearing as mailed.

5. The statement of need and reasonableness in support of the proposed rule.

6. The affidavit of mailing the notice of intent to adopt a rule without a public hearing.

7. A photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register.

8. Four copies of the rule as adopted, as approved by the Revisor.

9. Certificate of the Minnesota Pollution Control Agency's resolution adopting the rule.

10. The findings of fact, conclusions, and order adopting the rule.

11. All written requests, submissions, or comments on the rule received by the agency.

12. Declaration of compliance with rulemaking procedures.

Please note that no commentor requested to be notified of the submission of the proposed rules to the attorney general's office.

Sincerely,

Ann E. Cohen

ANN E. COHEN
Special Assistant
Attorney General

AEC:sc