

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1467
DATE RECEIVED 4/07/88
REVIEW DATE 4/16/88
DUE DATE 4/21/88

APPROVED 4/18/88
DISAPPROVED
WITHDRAWN

Docket No. 05.0009.0838
ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED ✓
REVISOR DISAPPROVED
FIELD W/SEC.STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)
~~≠~~ ~~Notice to Solicit Outside Information/Opinion~~
~~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 Statutory Authority
yes Small Business Statement
No Expenditure of public money statement
yes Signature
✓ Statement of Need and Reasonableness
no Small Business Statement
n/a Fees - § 16A.128
✓ Affidavit of Mailing Notice of Intent to Adopt Rule
2/15/88 Date (30)/25 days before adoption
✓ Publication in State Register
2/15/88 Date (30)/25 days before adoption
✓ Resolution Adopting
✓ Findings of Fact, Conclusions & Order Adopting
3/29/88 Date
✓ Written requests, submissions or comments
✓ Declaration of attorney
Ann Cohen Name of SAAG representing agency
~~Notice of Submission to Attorney General~~
~~Affidavit of Mailing Notice to Attorney General~~

ATTORNEY GENERAL

April 19, 1988

ANN E. COHEN
Special Assistant
Attorney General

CHRISTIE B. ELLER
Assistant Attorney General

6-9421

In the Matter of the Adopted Rule Relating to
Waste Tire Abatement

The above-referenced rule has been approved as to its legality by the Attorney General on April 18, 1988.

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

Also enclosed are any petitions, requests, submissions 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 establish 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.

CBE:nah
Enclosures

cc: Maryanne Hruby
Duane Harves

Waste Management Board

Adopted Permanent Rules Relating to Waste Tire Abatement

Rules as Adopted

9220.0100 SCOPE.

Parts 9220.0100 to 9220.0180 establish the procedures that the board shall follow in moving to abate tire dumps, the procedures that a responsible tire collector shall follow in abating a tire dump pursuant to board request, and the technical standards that a responsible tire collector must meet during the abatement process.

9220.0110 DEFINITIONS.

Subpart 1. **Applicability.** For the purposes of parts 9220.0100 to 9220.0180, 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 board.

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. **Board.** "Board" means the Minnesota Waste Management Board.

Subp. 5. **Chair.** "Chair" means the chair of the Minnesota Waste Management Board.

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.

Subp. 7a. **Oversize waste tires.** "Oversize waste tires" means a waste tire exceeding a 35-inch outside diameter, or a 14-inch width.

Subp. 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 9220.0100 to 9220.0180, "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.

9220.0120 **ABATEMENT PROCEDURES.**

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

Subp. 2. **Abatement priorities.** The board 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 board 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 board 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 board 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 board 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 board 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 chair an abatement plan meeting the criteria in part 9220.0130. 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 board.

9220.0130 CONTENTS OF ABATEMENT PLAN.

Subpart 1. **Goal.** The abatement of a tire dump subject to a board 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 chair, 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 board.

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 chair 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 users of the tire-derived products produced from the processing of the waste tires constituting the tire dump, and a description of how the tire-derived products will be used.

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 9220.0150 to 9220.0160. 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 9220.0160, subpart 8, must be submitted to the chair 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 9220.0170, 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 chair 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. The name, address, and phone numbers of the users of the tire-derived products produced from the processing of the waste tires constituting the tire dump, and a description of how the tire-derived products will be used.

E. 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.

F. A time schedule for bringing the tire dump into

compliance with the technical and operational standards in parts 9220.0150 to 9220.0160. 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 9220.0160, subpart 8, must be submitted to the chair as part of the abatement plan.

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

H. If the responsible tire collector will seek reimbursement under part 9220.0170, 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 a board permit for the site that is the subject of the abatement action, the responsible tire collector must notify the chair 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 waste tire permit rules for 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 chair 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.

9220.0140 INADEQUATE RESPONSE TO A REQUEST FOR ABATEMENT ACTION.

Subpart 1. **Inadequate response.** The board shall determine if a responsible tire collector has failed to make an adequate response to a request for abatement action. The following constitute grounds for the board 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 9220.0130;

C. the responsible tire collector has failed to sign a stipulation agreement incorporating the abatement plan approved by the chair; 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.** A finding that a responsible tire collector has failed to make an adequate response to a request for abatement constitutes grounds for the board to issue a tire dump abatement order to the responsible tire collector. If the board determines that board abatement is required, the tire dump abatement order 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.

9220.0150 TECHNICAL STANDARDS.

Subpart 1. **Scope.** During the time a tire dump is being abated according to an abatement plan approved by the chair, 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.

9220.0160 OPERATIONAL STANDARDS.

Subpart 1. **Scope.** During the time a tire dump is being abated pursuant to an abatement plan approved by the chair, 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 50 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

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 chair.

Subp. 9. **Emergency notification and reports.** The operator of the tire dump shall immediately notify the chair 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 chair 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 chair 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 chair so that an inspection of the tire dump may be conducted to certify the completion of the required abatement.

9220.0170 REIMBURSEMENT.

Subpart 1. **Scope.** The board 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 are recipients of a request to abate a tire dump, and who have entered into a stipulation agreement incorporating an abatement plan may request the board 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 chair shall establish the reimbursement rate. The reimbursement rate shall remain in effect for the term of the stipulation agreement. 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 board for tire dump abatement. In calculating the reimbursement rate for waste tires, excluding oversize waste tires, the chair 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 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 collector's processing revenues exceed processing costs, 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 shall not exceed $66 per ton.

The reimbursement rate for oversize waste tires shall be established by the chair 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 9220.0130, subpart 2, item H, and subpart 3, item G. The chair will choose a reimbursement rate that reflects the most cost-effective method of transporting and processing these waste tires.

Subp. 5. **Reimbursement total.** The chair 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 waste tires eligible for reimbursement in the tire dump, the total amount of money available to the board 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.

9220.0180 REIMBURSEMENT DISBURSEMENT.

Subpart 1. **Request for disbursement.** After the completion of an abatement increment, the responsible tire collector may request the chair 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 chair 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 responsible tire collector shall submit to the chair documentation the chair reasonably requires to enable the chair 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 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 9220.0170, subpart 5, and as incorporated into the stipulation agreement.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

APR 19 1988

Joan Anderson Growe
Secretary of State

11:30 AM

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

RESOLUTION WMB-001 -88

BE IT RESOLVED, that the Chair of the Waste management Board (Board) is hereby granted the authority to sign and to give notice of the Board's intent to adopt, without a public hearing, the attached amendments to rules governing the Waste Tire Dump Abatement Program, Minn. Rules Parts 9220.0100 - .0180, to all persons who have registered their names with the Board for that purpose and to publish the notice and rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Board to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1986).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Chair 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 for and Notice of Hearing, as well as acting as the Board's representative at all hearings.

Dated: January 28, 1988

JOSEPH M. PAVELICH, CHAIR
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of Rules of
the Waste Management Board
Amendments Governing the
Waste Tire Abatement Program

CERTIFICATE OF THE WASTE
MANAGEMENT BOARD'S
AUTHORIZING RESOLUTION

I, Joseph M. Pavelich, do hereby certify that I am the Chair of the Minnesota Waste Management Board, an agency duly authorized under the laws of the State of Minnesota, and that the following is true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Waste Management Board duly and properly called and held on the 24th day of March, 1988, that a quorum was present at the said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, that the Chair of the Waste Management Board (Board) is hereby granted the authority to sign and give notice of the Board's intent to adopt, without a public hearing, the attached amendments to the rules governing the Waste Tire Abatement Program to all persons who have registered their names with the Board for that purpose and publish the notice and the rules in the State Register, and to perform any acts incidental thereto, including making any form of changes in the rules that the Revisor of Statutes requires the Board to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1986).

BE IT FURTHER RESOLVED, that in the event a public becomes necessary, the chair is hereby granted the authority and directed to call a public 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 for and Notice of Hearing, as well as acting as the Board's representative at the hearings.

IN THE WITNESS WHEREOF, I have hereunto subscribed my name to this 29 day of March, 1988.

Joseph M. Pavelich, Chair
Waste Management Board

_____

Attested by Board Member

Waste Management Board

Proposed Permanent Rules Relating to Waste Tire Abatement

Rules as Proposed

~~7035.0000~~ 9220.0100 SCOPE.

Parts ~~7035.0000~~ 9220.0100 to ~~7035.0080~~ 9220.0180 establish the procedures that the ~~agency~~ board 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~~ board request, and the technical standards that a responsible tire collector must meet during the abatement process.

~~7035.0010~~ 9220.0110 DEFINITIONS.

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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 Board.** ~~"Agency"~~ "Board" means the Minnesota ~~Pollution Control Agency~~ Waste Management Board.

Subp. 5. ~~Director~~ Chair. ~~"Director"~~ "Chair" means the ~~executive director~~ chair of the Minnesota ~~Pollution Control~~ ~~Agency~~ Waste Management Board.

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

Approved by Revisor DSN

Statutes, section 115A.90, subdivision 8.

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Approved
by Revisor _____

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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.

~~7035.0020~~ 9220.0120 ABATEMENT PROCEDURES.

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

Subp. 2. **Abatement priorities.** The ~~agency~~ board 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.

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B. Second priority: tire dumps posing fire hazards. In ranking tire dumps that are fire hazards, the ~~agency~~ board 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~~ board 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~~ board 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~~ board 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~~ board 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 ~~commissioner~~ chair an abatement plan

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meeting the criteria ~~established~~ in part ~~7035.8030~~ 9220.0130. 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~~ board.

~~7035.8030~~ 9220.0130 CONTENTS OF ABATEMENT PLAN.

Subpart 1. **Goal.** The abatement of a tire dump subject to ~~an agency~~ a board 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 ~~commissioner~~ chair, 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~~ board.

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 ~~commissioner~~ chair 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~~ users of the tire-derived products produced from the processing of the waste tires constituting the tire dump, and a description of how the tire-derived products will be used.

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.

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F. A time schedule for bringing the tire dump into compliance with the technical and operational standards in parts ~~7035.8050~~ 9220.0150 to ~~7035.8060~~ 9220.0160. 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~~ 9220.0160, subpart 8, must be submitted to the ~~commissioner~~ chair 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~~ 9220.0170, 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 ~~commissioner~~ chair 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. The name, address, and phone numbers of the users of the tire-derived products produced from the processing of the waste tires constituting the tire dump, and a description of how the tire-derived products will be used.

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E. 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.~~ F. A time schedule for bringing the tire dump into compliance with the technical and operational standards in parts ~~7035.8050~~ 9220.0150 to ~~7035.8060~~ 9220.0160. 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~~ 9220.0160, subpart 8, must be submitted to the ~~commissioner~~ chair as part of the abatement plan.

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

~~G.~~ H. If the responsible tire collector will seek reimbursement under part ~~7035.8070~~ 9220.0170, 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~~ a board permit for the site that is the subject of the abatement action, the responsible tire collector must notify the ~~commissioner~~ chair 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~~ waste tire permit 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 ~~commissioner~~ chair of this intent at the time the abatement plan is submitted, and agree to develop a

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plan for processing and removal of the new waste tires.

~~7035.8040~~ 9220.0140 INADEQUATE RESPONSE TO A REQUEST FOR ABATEMENT ACTION.

Subpart 1. **Inadequate response.** The ~~agency~~ board shall determine if a responsible tire collector has failed to make an adequate response to a request for abatement action. The following constitute grounds for the ~~agency~~ board 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~~ 9220.0130;

C. the responsible tire collector has failed to sign a stipulation agreement incorporating the abatement plan approved by the ~~commissioner~~ chair; 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.** A finding that a responsible tire collector has failed to make an adequate response to a request for abatement constitutes grounds for the ~~agency~~ board to issue a tire dump abatement order to the responsible tire collector. If the ~~agency~~ board determines that ~~agency~~ board abatement is required, the tire dump abatement order 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~~ 9220.0150 TECHNICAL STANDARDS.

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

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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~~ 9220.0160 OPERATIONAL STANDARDS.

Subpart 1. **Scope.** During the time a tire dump is being abated pursuant to an abatement plan approved by the ~~**commissioner**~~ chair, 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~~ 50 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

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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

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 ~~commissioner~~ chair.

Subp. 9. **Emergency notification and reports.** The operator of the tire dump shall immediately notify the ~~commissioner~~ chair 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 ~~commissioner~~ chair a report on the emergency. This report shall set out the origins of the emergency, the actions that were taken to deal with the

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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 ~~commissioner~~ chair 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 ~~commissioner~~ chair so that an inspection of the tire dump may be conducted to certify the completion of the required abatement.

~~7035.8070~~ 9220.0170 REIMBURSEMENT.

Subpart 1. **Scope.** The ~~agency~~ board 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~~ a request to abate a tire dump, and who have entered into a stipulation agreement incorporating an abatement plan may request the ~~agency~~ board 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

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be established in the stipulation agreement incorporating the abatement plan. The ~~commissioner~~ chair shall establish the reimbursement rate. The reimbursement rate shall remain in effect for the term of the stipulation agreement. 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~~ board 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~~, excluding oversize waste tires, the ~~commissioner~~ chair 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 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 collector's processing revenues exceed processing costs, 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 shall not exceed $66 per ton.

The reimbursement rate for oversize waste tires ~~exceeding an 18 inch rim diameter, a 35 inch outside diameter, or a 14 inch tire width,~~ shall be established by the ~~commissioner~~ chair 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~~ 9220.0130, subpart 2, item H, and subpart 3, item

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G. The ~~commissioner~~ chair will choose a reimbursement rate that reflects the most cost-effective method of transporting and processing these waste tires.

Subp. 5. **Reimbursement total.** The ~~commissioner~~ chair 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 waste tires eligible for reimbursement in the tire dump, the total amount of money available to the ~~agency~~ board 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.~~

~~7035.8000~~ 9220.0180 REIMBURSEMENT DISBURSEMENT.

Subpart 1. **Request for disbursement.** After the completion of an abatement increment, the responsible tire collector may request the ~~commissioner~~ chair 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 ~~commissioner~~ chair 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 responsible tire collector shall submit to the ~~commissioner~~ chair documentation the ~~commissioner~~ chair reasonably requires to enable the ~~commissioner~~ chair to make the determinations in subpart 1.

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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~~ 9220.0170, 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 Abatement

AGENCY: Waste Management Board

MINNESOTA RULES: Chapter 9220

INCORPORATIONS BY REFERENCE:

Rule Number: 9220.0110, subpart 22
Material Incorporated: Classification of Wetlands and Deep Water Habitats of the United States, 1979, issued by U. S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. 20402

Rule Number: 9220.0150
Material Incorporated: Standard for Storage of Rubber Tires, NFPA 231D-1980 edition

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of Proposed Rules Governing the Waste Tire Dump Abatement, Minn. Rules Parts 9220.0100 to 9220.0180.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Waste Management Board (Board) intends to adopt amendments to the above-entitled rule governing waste tire dump abatement without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1986). The Board's authority to adopt the rule is set forth in Minn. Stat. § 115A.914 pursuant to Reorganization Order No. 144 (Dept. of Admin. 1987).

All persons have until 4:30 p.m. on Tuesday, March 15, 1988, to submit comments in support of or in opposition to the proposed amendments to the rule. Comment is encouraged. Each comment should identify the portion of the proposed amendment addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendment addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be submitted to:

Mr. Andrew Ronchak
Waste Management Board
1350 Energy Lane
St. Paul, Minnesota, 55108
(612) 649-5750

The proposed amendments may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed amendments to the rule as noticed.

The proposed amendments to the rule, if adopted, will affect

(over please)

the waste tire abatement program established in Minn. Stat. § 115A.914 (1986). This program was intiated by the Minnesota Pollution Control Agency in 1985. The proposed amendments reflect the transfer of the program to the Waste Management Board. Additional proposed amendments are intended to clarify and improve the existing rule. The proposed rule is enclosed with this notice. One free copy of the rules is available from Mr. Andrew Ronchak at the address and telephone given above.

A Statement of Need and Reasonableness that describes the need for an reasonableness of each provision of the proposed rule and that identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mr. Andrew Ronchak upon request.

You hereby advised, pursuant to Minn. Stat. § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule will have no negative effect on small businesses because the rule provides for reimbursement of costs incurred in waste tire dump abatement and qualifying small businesses would be entitled to this reimbursement.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule as adopted, must submit a written request to Mr. Andrew Ronchak.

Dated: February 15, 1988

Joseph M. Pavelich, Chair
Waste Management Board

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

In the Matter of the Proposed
Rule Amendments Governing
Waste Tire Abatement, Minn.
Rules Parts 9220.0100 to 9220.0180

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The waste tire abatement program was authorized by legislation passed in, and codified as Minn. Stat.§ 115A.906. Action under the program was initiated by the Minnesota Pollution Control Agency (MPCA), which developed and implemented emergency abatement rules. The emergency abatement rules became effective November 21, 1985, and were effective for one year. During the one year period the emergency abatement rules were effective, the MPCA developed and implemented permanent abatement rules. The permanent abatement rules became effective December 15, 1986. On July 1, 1987 the waste tire program was transferred to the Minnesota Waste Management Board(Board) by Administrative Order No. 144.

II. STATEMENT OF BOARD'S STATUTORY AUTHORITY

The Board's statutory authority to adopt the rule amendments is set forth in Minn. Stat.§ 115A.914, which provides:

> The agency [board] shall adopt rules for the administration of waste tire collector and processor permits, waste tirenuisance abatement, and waste tire collection.

Under this statute the Board has the necessary authority to adopt the proposed rule amendments. The Board finds that the amendments are needed to implement the program created by Minn. Stat.§ 115A.906 properly.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1986) requires the Board to make an affirmative presentation of the facts establishing the need for and the reasonableness of the rule amendments as proposed. In general terms, this means that the Board must set forth the reasons for its proposed changes, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that the problem exists which requires administrative attention, and reasonableness means that the solution proposed by the Board is appropriate. The need for the rule amendments is discussed below.

The waste tire abatement rules were originally promulgated by the MPCA. The authority to administer the rules has since been transferred to the Board. Therefore, a majority of the amendments to the abatement rule are word changes needed to reflect the transfer of authority. However, the Board is also proposing amendments that are not a result of the transfer of authority. These rule amendments are needed to clarify the existing rule, and to make the program easier to administer.

IV. STATEMENT OF REASONABLENESS

The reasonableness of the proposed changes that are not a result of the transfer of authority are discussed below. There are a total of nine of these amendments. Some amendments provide clarity by adding or changing vague language. Other amendments change the requirements to improve program administration.

1. Part 9220.0110 Subp. 7a, (oversize waste tire definition).

Defining the term "oversize waste tire" will result in the clarification of Part 9220.0170 Subp. 4. As originally drafted, the definition was written into the text of the rule two times.
This proved cumbersome in practice, and developing a definition was therefore reasonable.

2. Part 9220.0130 Subp. 2.c, (additional information required).

The additional information required as a result of this amendment will enable the Board to determine if the market used in the abatement of the waste tires is environmentally acceptable.

3. Part 9220.0130 Subp. 3.d, (additional information required).

The additional information required as a result of this amendment will enable the Board to determine if the market used in the abatement of the waste tires is environmentally acceptable.

4. Part 9220.0130 Subp. 4, (addition of "waste tire permit").

The inserting of "waste tire permit" and the deletion of "technical" clarifies that the responsible tire collector must comply with all aspects of the waste tire permit rule when seeking to obtain a permit while under an abatement action.

5. Part 9220.0160 Subp. 2, (extending burning limit distance).

This proposed amendment extends the required distance between the waste tire pile and open flames, blow torches, or highly flammable substances from ten to fifty feet. The Board believes that the ten foot limit was too close and was inadequate to prevent fires at the tire stockpile. The fifty foot requirement is consistent with the fifty foot requirement for fire lanes and perimeter roads.

6. Part 9220.0170 Subp. 2, (the deletion of the notification requirement).

The notification requirement under this section was originally required under the emergency abatement rules. The notification period was open for a 60 day period from November 21, 1985 to January 21, 1986. The original intent of the notification was to help the MPCA determine which waste tire stockpiles existed before the

effective date of the emergency rules (November 21, 1985) and how many waste tires were in those stockpiles. The reason for this information was needed was that the rules only allowed for the reimbursement of the waste tires stockpiled before the effective date of the emergency rules. In implementing this restriction, however, the Board discovered that the numbers contained in the notices submitted to the Board were inaccurate and could not be used as a basis for calculating waste tires eligible for reimbursement. The Board also found that many tire collectors were unaware of the notice requirement, or assumed that because the site had been inspected it did not apply to them. Thus, many tire dump owners failed to submit the notice and would be ineligible to receive reimbursement. When the Board can estimate the number of waste tires that were at a site before the November 21, 1985 deadline, total elimination of a tire collector from receiving reimbursement seems to be an unnecessarily harsh result. The Board therefore proposes to eliminate it. The proposed amendment does not change the limit on reimbursement. Responsible tire collectors who seek reimbursement for the abatement of a waste tire stockpile will still need to establish that the waste tires were collected before November 21, 1985.

7. Part 9220.0170 Subp. 4, (clarification of the term of the stipulation agreement and the replacement of the terms "oversize waste tire").

The addition of the language "The reimbursement rate shall remain in effect for the term of the stipulation agreement" is necessary to clarify that the reimbursement rate agreed upon between the Board and the responsible tire collector will remain in effect for the full term of the agreement. This is reasonable because it would be administratively burdensome for the Board to recalculate the reimbursement rate with every minor "cost of doing business" change.

The use of the term "oversize waste tire" was discussed under amendment 1, above.

8. Part 9220.0170 Subp. 5, (clarification of the reimbursement total and the deletion of language regarding amendment of the reimbursement total).

The insertion phrase "the waste tires eligible for the reimbursement in the tire dump" clarifies what the Board bases the reimbursement total on. The total was intended to be based on the number of waste tires existing in the waste tire dump before November 21, 1985.

The deletion of the language reading "to change the total, a amendment of the stipulation 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" is intended to eliminate amendments of the reimbursement total established in the stipulation agreement. This change is consistent with the change eliminating changes to the reimbursement rate during the course of the abatement action. For administrative efficiency, the Board cannot amend the reimbursement total once established. The total should represent the Board's and the responsible tire collector's best estimate as to the number of waste tires at the tire dump. History has shown the Board's estimating procedure to be fairly accurate. Thus, there should be no need to amend the total. With the amendment, the Board will enter into a stipulation agreement for the abatement of the waste tire stockpile and negotiate a total reimbursement as required by Part 9220.0170 for the abatement of waste tire stockpile, and the Board and the responsible tire collector will both know up front the amount of money to be spent

and received for the abatement of the site. The reimbursement payment will be made to the responsible tire collector pursuant to Part 9220.0180.

9. Part 9220.0180 Subp. 4, (deletion of actual cost requirement).

The amendment to this part changes the requirements for releasing a reimbursement payment to the responsible tire collector. The Board believes that the requirement that reimbursement be based on actual costs incurred was burdensome and unnecessary. The formula in the rules provides an adequate basis for establishing the cost of abatement. More accurate site specific cost figures would be difficult to generate and verify, slowing the reimbursement payments for work completed. This proposed change is consistent with other changes that make the negotiated rate/total for reimbursement the sole basis for the reimbursement payment for the abatement of the site.

Based on the foregoing, the proposed amendments to Minn. Rules pts. 9220.0100 to 9220.0180 are both needed and reasonable.

Date 2/15/88

Joseph M. Pavelich, Chairman
Minnesota Waste Management Board

WP/SW/TL/AR:dc

4900.0592 ELIGIBLE PROPERTIES.

The property to be improved by a home energy loan is restricted as follows:

A. to D. [Unchanged.]

~~E. A manufactured or factory-made house is eligible for home energy loans only if it is permanently fixed to land by way of a foundation and is taxed as real property.~~

Waste Management Board

Proposed Permanent Rules Relating to Waste Tire Abatement

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Waste Management Board (Board) intends to adopt amendments to the above-entitled rule governing waste tire dump abatement without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minn. Stat.* §§ 14.22 to 14.28 (1986). The Board's authority to adopt the rule is set forth in *Minn. Stat.* § 115A.914, pursuant to Reorganization Order No. 144 (Dept. of Admin. 1987).

All persons have until 4:30 p.m. on Tuesday, March 15, 1988, to submit comments in support of or in opposition to the proposed amendments to the rule. Comment is encouraged. Each comment should identify the portion of the proposed amendment addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule amendments within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendment addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minn. Stat.* §§ 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be submitted to:

Mr. Andrew Ronchak
Waste Management Board
1350 Energy Lane
St. Paul, Minnesota, 55108
(612) 649-5760

The proposed amendments may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed amendments to the rule as noticed.

The proposed Amendments to the rule, if adopted, will affect the waste tire abatement program established in *Minn. Stat.* § 115A.914 (1986). This program was initiated by the Minnesota Pollution Control Agency in 1985. The proposed amendments reflect the transfer of the program to the Waste Management Board. Additional proposed amendments are intended to clarify and improve the existing rule. The proposed amendments to the rule are published below. One free copy of the rule with the proposed amendments is available upon request from Mr. Andrew Ronchak at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments to the rule and that identifies the data and information relied upon to support the proposed rule amendments has been prepared and is available from Mr. Andrew Ronchak upon request.

You hereby advised, pursuant to *Minn. Stat.* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed amendments to the rule will have no negative affect on small businesses because the amendments will enable small businesses owning tire dumps to qualify for reimbursement of abatement costs more easily.

If no hearing is required, upon adoption of the amendments to the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the amendments to the rule as adopted, must submit a written request to Mr. Andrew Ronchak.

Joseph M. Pavelich, Chair
Waste Management Board

Rules as Proposed

~~7035.8000~~ 9220.0100 SCOPE.

Parts ~~7035.8000~~ 9220.0100 to ~~7035.8080~~ 9220.0180 establish the procedures that the ~~agency~~ board 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~~ board request, and the technical standards that a responsible tire collector must meet during the abatement process.

~~7035.8010~~ 9220.0110 DEFINITIONS.

Subpart 1. **Applicability.** For the purposes of parts ~~7035.8000~~ 9220.0100 to ~~7035.8080~~ 9220.0180, 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~~ board.

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~~ Board.** ~~"Agency"~~ "Board" means the Minnesota ~~Pollution Control Agency~~ Waste Management Board.

Subp. 5. **~~Director~~ Chair.** ~~"Director"~~ "Chair" means the ~~executive director~~ chair of the Minnesota ~~Pollution Control Agency~~ Waste Management Board.

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.

Subp. 7a. **Oversize waste tires.** "Oversize waste tires" means a waste tire exceeding a 35-inch outside diameter, or a 14-inch width.

Subp. 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~~ 9220.0100 to ~~7035.8080~~ 9220.0180, "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.

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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~~ 9220.0120 ABATEMENT PROCEDURES.

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

Subp. 2. **Abatement priorities.** The ~~agency~~ board 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~~ board 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~~ board 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~~ board 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~~ board 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~~ board 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 ~~commissioner~~ chair an abatement plan meeting the criteria ~~established~~ in part ~~7035.8030~~ 9220.0130. 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~~ board.

~~7035.8030~~ 9220.0130 CONTENTS OF ABATEMENT PLAN.

Subpart 1. **Goal.** The abatement of a tire dump subject to ~~an agency~~ a board 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 ~~commissioner~~ chair, 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~~ board.

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 ~~commissioner~~ chair 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~~ users of the tire-derived products produced from the processing of the waste tires constituting the tire dump, and a description of how the tire-derived products will be used.

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~~ 9220.0150 to ~~7035.8060~~ 9220.0160. 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~~ 9220.0160, subpart 8, must be submitted to the ~~commissioner~~ chair 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~~ 9220.0170, 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 ~~commissioner~~ chair 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. The name, address, and phone numbers of the users of the tire-derived products produced from the processing of the waste tires constituting the tire dump, and a description of how the tire-derived products will be used.

E. 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.~~ F. A time schedule for bringing the tire dump into compliance with the technical and operational standards in parts ~~7035.8050~~ 9220.0150 to ~~7035.8060~~ 9220.0160. 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~~ 9220.0160, subpart 8, must be submitted to the ~~commissioner~~ chair as part of the abatement plan.

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

~~G.~~ H. If the responsible tire collector will seek reimbursement under part ~~7035.8070~~ 9220.0170, 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~~ a board permit for the site that is the subject of the abatement action, the responsible tire collector must notify the ~~commissioner~~ chair 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~~ waste tire permit 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 ~~commissioner~~ chair 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~~ 9220.0140 INADEQUATE RESPONSE TO A REQUEST FOR ABATEMENT ACTION.

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

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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~~ 9220.0130;

C. the responsible tire collector has failed to sign a stipulation agreement incorporating the abatement plan approved by the ~~commissioner~~ chair; 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.** A finding that a responsible tire collector has failed to make an adequate response to a request for abatement constitutes grounds for the ~~agency~~ board to issue a tire dump abatement order to the responsible tire collector. If the ~~agency~~ board determines that ~~agency~~ board abatement is required, the tire dump abatement order 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~~ 9220.0150 TECHNICAL STANDARDS.

Subpart 1. **Scope.** During the time a tire dump is being abated according to an abatement plan approved by the ~~commissioner~~ chair, 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~~ 9220.0160 OPERATIONAL STANDARDS.

Subpart 1. **Scope.** During the time a tire dump is being abated pursuant to an abatement plan approved by the ~~commissioner~~ chair, 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~~ 50 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

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 ~~commissioner~~ chair.

Subp. 9. **Emergency notification and reports.** The operator of the tire dump shall immediately notify the ~~commissioner~~ chair 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 ~~commissioner~~ chair 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 ~~commissioner~~ chair 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 ~~commissioner~~ chair so that an inspection of the tire dump may be conducted to certify the completion of the required abatement.

~~7035.8070~~ 9220.0170 REIMBURSEMENT.

Subpart 1. **Scope.** The ~~agency~~ board 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~~ a request to abate a tire dump, and who have entered into a stipulation agreement incorporating an abatement plan may request the ~~agency~~ board 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 ~~commissioner~~ chair shall establish the reimbursement rate. The reimbursement rate shall remain in effect for the term of the stipulation agreement. 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~~ board 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~~, excluding oversize waste tires, the ~~commissioner~~ chair shall use the following formula to determine which abatement alternative is the most cost effective.

$$R = (M \times \$0.125) \quad + \text{ or } - \quad PC$$
(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 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 collector's processing revenues exceed processing costs, 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 shall not exceed $66 per ton.

The reimbursement rate for oversize waste tires ~~exceeding an 18-inch rim diameter, a 35-inch outside diameter, or a 14-inch tire width,~~ shall be established by the ~~commissioner~~ chair 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~~ 9220.0130, subpart 2, item H, and subpart 3, item G. The ~~commissioner~~ chair will choose a reimbursement rate that reflects the most cost-effective method of transporting and processing these waste tires.

Subp. 5. **Reimbursement total.** The ~~commissioner~~ chair 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 waste tires eligible for reimbursement in the tire dump, the total amount of money available to the ~~agency~~ board 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~~

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~~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~~ 9220.0180 REIMBURSEMENT DISBURSEMENT.

Subpart 1. **Request for disbursement.** After the completion of an abatement increment, the responsible tire collector may request the ~~commissioner~~ chair 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 ~~commissioner~~ chair 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 responsible tire collector shall submit to the ~~commissioner~~ chair documentation the ~~commissioner~~ chair reasonably requires to enable the ~~commissioner~~ chair 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~~ 9220.0170, 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.

Board of Barber Examiners

Adopted Permanent Rules Relating to License Transfer and Expansion or Change of Location of School

The rule proposed and published at *State Register*, Volume 12, Number 23, pages 1177-1178, December 7, 1987 (12 S.R. 1177) is adopted as proposed.

Hazardous Substance Injury Compensation Board

Adopted Permanent Rules Relating to Attorney Fees for Property Damage Claims

The rule proposed and published at *State Register*, Volume 12, Number 20, pages 1035-1036, November 16, 1987 (12 S.R. 1035) is adopted as proposed.

Hazardous Substance Injury Compensation Board

Adopted Permanent Rules Relating to Death Benefits

The rules proposed and published at *State Register*, Volume 12, Number 18, pages 936-939, November 2, 1987 (12 S.R. 936) are adopted with the following modifications:

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the matter of the proposed Rule Amendments Governng Waste Tire Abatement, Minn. Rules pts. 9220.0100 - .0180

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Andrew Ronchak, being duly sworn says :

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1986), that their names be placed on the Minnesota Waste Management Board's rulemaking mailing list was accurate, complete, and current as of the 15th day of February, 1988.

That on the 15th day of February, 1988, at the city of St Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the United States mail for first class mailing a copy therof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Subscribed and sworn to before me this 28th day of March, 1988.

Notary Public - Minnesota

JUNE J. SEERY
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires Nov. 28, 1990

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Joseph M. Pavelich, do hereby certify that I am the Chair of the Minnesota Waste Management Board, an agency duly authorized under the laws of the State of Minnesota, and that the following is true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Waste Management Board duly and properly called and held on the 24th day of March, 1988, that a quorum was present at the said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, that the Minnesota Waste Management Board (Board) hereby approves and adopts the attached rule amendments governing the Waste Tire Abatement Program, pursuant to the authority vested in the Board by Minn. Stat. 115A.914 and Reorganization Order No. 144 (Dept. of Admin. 1987).

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Chair is authorized to make any form changes in the rules that the Revisor of Statutes requires the Board to make in order to obtain the Revisor's Certificate as required by Minn. Stat. 14.28 (1986).

BE IT FURTHER RESOLVED, that the Board adopts the attached Findings of Fact, Conclusions, and Order Adopting Rules and that the Chair is hereby authorized to sign the above-mentioned document on behalf of the Board and to perform the acts necessary to provide that the rule shall have the force and the effect of law.

IN THE WITNESS WHEREOF, I have hereunto subscribed my name to this 29 day of March, 1988.

Joseph M. Pavelich, Chair
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Rule Amendments Governing Waste Tire Abatement, Minn. Rules pts. 9220.0100-.0180	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above entitled matter came on for decision before the Minnesota Waste Management Board (Board) on the 24th day of March, 1988. After affording all interested persons the opportunity to present written and oral data, statements, and arguments to the Board, in accordance with statutory requirements regarding the adoption of noncontroversial rule amendments, after consideration of the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Board, being fully advised in the premises, hereby adopts the following Findings of Facts, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Board's intent to adopt the above entitled rule amendments without a public hearing was published in the State Register on February 15, 1988, and was sent by mail to all persons on the list maintained by the Board pursuant to Minn.Stat. §§ 14.14, subd. 1a and 14.22 (1986) on February 11, 1988.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule amendments for 30 days after notice of the proposed rulemaking. The thirty (30) day comment period, as set out in the notice, expired on Tuesday, March 15, 1988.

4. No requests for public hearing were received during the 30 day comment period

5. No requests for notice of submission to the Attorney General were received.

6. During the comment period the Board received three written comments on the abatement rules. This comments did not address any of the proposed amendments and therefore no changes to the amendments will be made.

7. The Board adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rule amendments. The Board hereby incorporates theStatement of Need and Reasonableness into the findings.

8. The above captioned rule amendments are needed and reasonable.

CONCLUSIONS

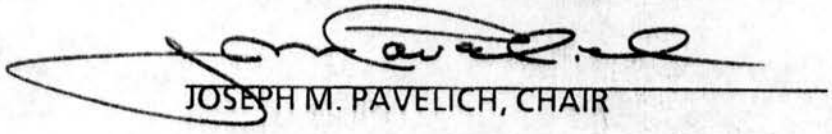
1. The Board duly acquired and jurisdiction over this proceeding.

2. The Board published and served due, timely, and adequate notice of the intent to adopt rules without a public hearing.

3. All relevant legal and procedural requirements of the statute and the rule have been compiled within.

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 9220.0110 - .0180 governing Waste Tire Abatement are adopted pursuant to the authority vested in the Board by Minn. Stat. §115A.914 and Reorganization Order No. 144 (Dept. of Admin. 1987).

MINNESOTA WASTE MANAGEMENT BOARD



JOSEPH M. PAVELICH, CHAIR

DATED: MARCH 29, 1988

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Rule Amendments Governing Waste Tire Abatement, Minn. Rules pts. 9220.0100-.0180	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

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CONCLUSIONS

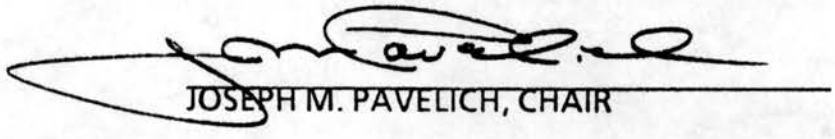
1. The Board duly acquired and jurisdiction over this proceeding.

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MINNESOTA WASTE MANAGEMENT BOARD



JOSEPH M. PAVELICH, CHAIR

DATED: MARCH 29, 1988

DEPARTMENT: Waste Management Board

STATE OF MINNESOTA

OFFICE MEMORANDUM

TO: Board Members and Staff

DATE: March 15, 1988

FROM: Andrew Ronchak 3/15/88

PHONE: 649-5776

SUBJECT: Review of Comments Received Relating to the Waste Tire Dump Abatement Rule Amendments

Notice of the Waste Management Board's intent to adopt rule amendments governing the abatement of waste tire dumps without a public hearing was published in the State Register on February 15, 1988, and was sent to all persons on the mailing list maintained by the Board pursuant to Minn. Stat. §§ 14.14 subd. 1a, and 14.72 (1986).

All persons were given an opportunity to submit comments on the rule for thirty (30) days after notice of the proposed rulemaking. The thirty (30) day comment period as set out in the notice expired March 15,1988.

During the comment period the Board received three written comments on the abatement rules. These comments did not address any of the proposed amendments and therefore no changes to the amendments as proposed will be made.

COMMENT 1. No Proposed Changes.

The first written comment received by staff was submitted by Bill Lauer (refer to attached comment). Mr. Lauer is an environmentalist for Scott County. The comment concerned Minn. Rules pt. 9220.0120, subp. 2. The comment by Mr. Lauer suggests changes to the current system for evaluating the abatement priorty of waste tire dumps. The comment suggests placing a higher priority on the potential public health problems associated with the stockpiling of waste tires, through the introduction of a point system. Because no amendment was proposed for Minn. Rules pt. 9220.0120, subp. 2 the subject of Mr. Lauer's comment, it would not be appropriate to amend it at this time. Only rule amendments listed in the public notice are subject to comments and changes. However, Board staff share the concerns of Mr. Lauer, in prioritizing waste tire dumps. Board staff currently evaluate and prioritize the potential health risk associated with waste tire dumps, when prioritizing waste tire dumps for Board actions to initiate the abatement process. Board staff believe there is enough flexibility in the current prioritizing system to adequately address the abatement of a waste tire dump posing a significant health hazard.

COMMENT 2. No Proposed Changes.

The second comment received was submitted by WIlliam B. Day of Tufco Inc. (refer to attached comment). Mr. Day's comment concerning the abatement rules was addressed to Minn. Rules pt. 9220.0170, subp. 3. The comment by Mr. Day suggested a deletion of the November 21, 1985 date for reimbursement eligiblity. The effect of the of the change would make all currently stockpiled waste tires eligible for reimbursement. Because no amendment was proposed for Minn. Rule pt. 9220.0170, subp. 3, the subject of Mr. Day's comment, it again would not be appropriate to amend it at this time. However, Board staff believe this comment was partially addressed through the deletion of the noticification requirement in Minn. Rules pt 9220.0170, subp. 2. By deleting the notification requirement reimbursement may be provided for any waste tire stockpile if the stockpile owner can prove it existed before the November 21,1985 cutoff date.

COMMENT 3. No Proposed Changes.

The last comments received by the Board were submitted by Charles B. Hoffman of Pickands Mather & Company (refer to attached comment). The comments submitted by Mr. Hoffman relate to two areas of the abatement rules. The first comment submitted by Mr. Hoffman stated that oversize waste tires from mining operations constitute a special case, therefore, should be exempted form the abatement rules until such time as there is reasonable opportunity to dispose of them. Mr. Hoffman believes this to be an oversight in the abatement rules, and that the oversize waste tires generated through Northern Minnesota mining operations should be given special consideration. Board staff believe this comment is not addressed specifically to any proposed amendment and therefore it would not be appropriate to amend the rules at this time. Board staff do however agree that options for disposal and processing of oversize waste tires are not available at this time, therefore, would not recommend Board action to abate oversize waste tires accumulated by the mining companys. However, as processing options for oversize waste tires are developed Board staff would recommend Board actions to abate the oversize waste tires generated by mining companys. Mr. Hoffman's second comment concerns the definition for Wetland as stated in Minn. Rules pt. 9220.0110, subp. 22. Mr. Hoffman's concern is that the definition for Wetlands is to broad. Again, Minn. Rules pt. 9220.0110, subp. 22 is not a proposed abatement rule change, therefore, would not be appropriate to amend at this time. In addition, Board staff disagree with Mr. Hoffman's suggestion that the definition for Wetland is to broad .Staff disagree due to the fact that the definition in the federal publication the Classification of Wetlands and Deep Water Habitats of the United States, 1979 was incorporated into the abatement rule definition.

The comments submitted by Mr. Lauer, Mr. Day, and Mr. Hoffman were the only three comments the Board received.

SCOTT COUNTY
ENVIRONMENTAL HEALTH
COURT HOUSE A102
SHAKOPEE, MN. 55379-1393 (612)-445-7750, Ext. 354

February 26, 1988

RECEIVED
MAR 2 1988
WASTE MANAGEMENT BOARD

MWMB
Andy Ronchak
Waste Tire Program
1350 Energy Lane
St. Paul, MN 55108

Dear Mr. Ronchak:

After reviewing the "Proposed Permanent Rules Relating to Waste Tire Abatement", I have found an area in which I would like to suggest a change.

Minnesota rules, chapter 9220.0120 "Abatement Procedures" Subp. 2. A addresses tire dumps with over a million tires. This first level priority appears to be inappropriate, since, by your own estimates, the largest tire dump existing in Minnesota has an estimated 550,000 tires and it is extremely unlikely that there is a pile out there somewhere with over a million tires that no one knows about. My point, however, is not that the first priority should be some relevant number of tires, but be related to the potential impact to first public health and second to the environment. In that respect, the priorities B, C and D begin to address these issues, but the emphasis is backward in my estimation. The most important priority should always be public health! I cannot emphasize this enough. A better way of approaching this issue would be to establish a point system for various relevant factors and select the dumps with the highest point values for immediate action. This method is commonly used to determine funding priorities for waste water treatment projects on a federal and state level. In this regard, I would propose to you for consideration a point/factor relationship as follows:

30pts. Potential to harbor disease transmitting mosquitoes, (ie, tires shaded, in wooded area, capable of containing stagnant water). And, potential carriers of encehpalitis or other mosquito transmitted diseases known to exist in vicinity of tire dump, ie. horses, especially where there are frequent and large numbers of horses being imported and exported into the area. Direct evidence of Aedes triseriatus mosquito adults or larvae should be demonstrated if possible. Mosquito control agencies should also be consulted.

25pts. Proximity to densely populated area. Sites should be ranked in this regard with worst sites getting full 25 points and most desolate site receiving 0. This factor also relates to problems associated with tire dump fires in proximity to populated areas.

15pts. Arrangement or location of tires creates a fire fighting problem with a potential for adverse impacts on public health or the environment.

15pts. Size of pile; with largest getting full 15 points and smallest 0.

10pts. Location of tire dump is visible to public and creates an aesthetic nuisance in an otherwise natural environmental setting.

5pts. County or municipality proposing support or assistance with tire cleanup.

This systematic approach better reflects the intent of the waste tire statutes and original program direction. If for some reason you decide not to take this approach, (considering health and environmental impact as priority rather than pile size), then you should correct the fact sheet listed as "WASTE TIRE ABATEMENT PROGRAM". The section under "dump priority" is in disagreement with the way the rules are presently written.

Sincerely,

Bill Lauer

Bill Lauer
Scott County Environmentalist

TUFC) INCORPORA'. .ED

Highway 53 South P.O. Box 1044 Virginia, Minnesota 55792 Phone 218/744-4945

February 24, 1988

Mr. Ed Welsch
WASTE MANAGEMENT BOARD
1350 Energy Lane
St. Paul, MN 55108

Dear Mr. Welsch:

I believe it is appreciated by all the tire dealers that you have been receptive to holding these meetings and to listen to our input. As a review of the ideas presented and the concept that our group has, I present the following:

1. The monies from the Motor Vehicle Transfer Fund should be permanently established and used to eliminate the present and any future scrap tire problem.

2. An attempt should be made to recover those funds that have been collected and transferred to other non-related accounts.

3. The monies should be used in the following manner:

a. The larger portion, maybe 40%, should be available for payment to the final processor based on a rate of $40/ton for partially processed and $50/ton for whole tires.

b. The next portion of 25% to be available for payment to transporters based on a rate of $25/ton.

c. The next portion of 10% to be available to the collector sites for slitting or partial sizing. This rate would be at $10/ton.

d. The remaining 25% would be available to the Waste Management Board for funding the program and providing their employee at the final processor. This person would verify the receipt, record the type and amount of each load received, issue the transportation checks and initial processing checks if appropriate, and authorize payments to the processors. This person would be a WMB employee and the supervisor of the system, and there would be at least one for each authorized final processor.

It was the feeling of our group that by funding the final process and the transportation to that location, the reward for the local entrepreneur would be such to justify the ultimate clean-up. This plan is in lieu of the current abatement plan which we felt would be far more expensive and would only clean up old stockpiles while new ones were being established.

We also feel that the November, 1985 date should be abolished and all current piles be acceptable in our plan; it has been totally wrong for the tire dealer to charge his customer a disposal fee and pay a tipping fee when the tire users have been led to believe that the MVT Fund was established to perform that function.

This is what I felt was presented to your staff as a more viable solution to the waste tire problem. We may not all say it exactly the same way and there could be some adjustment in the numbers, but the idea is to spend the money on the "horses" and supervise their action and the "cart" full of tires will clean up the problem.

I sure hope your group can find agreement with this concept.

Sincerely,

TUFCO INCORPORATED

William B. Day, President

Retreading Specialists Serving North Central U.S.A.

Pickands Mather

Pickands Mather & Co.
Suite 811 - 200 West Superior Street
Duluth MN 55802

RECEIVED
MAR 14 1988
WASTE MANAGEMENT
BOARD

March 11, 1988

Mr. Andrew Ronchak
Waste Management Board
1350 Energy Lane
St. Paul, Minnesota 55108

Dear Mr. Ronchak:

Pickands Mather & Co. is managing agent for two of Minnesota's taconite facilities: Hibbing Taconite Company and LTV Steel Mining Company. We are taking this opportunity to comment on the proposed rules relating to waste tire abatement which appeared in the February 15, 1988 State Register. Our comments relate to two matters: oversized tires and wetlands.

OVERSIZED TIRES

Although Section 9220.0110 Subpart 7a of the proposed rules recognizes that oversized waste tires exist, and defines them as waste tires which exceed a 35-inch outside diameter or a 14-inch width, the distinction between regular waste tires and oversized ones is dealt with only in Section 9220.0170 regarding reimbursement. Otherwise, waste tires are all considered equal, regardless of size. We object to the lack of special attention to the large waste tires generated by mining operations. While the proposed rules may be reasonable and necessary with regard to ordinary automobile tires which weigh approximately 30 pounds, they are neither reasonable nor necessary with regard to mine equipment tires which commonly weigh two to three tons. The large size of these waste tires creates special handling problems.

Including large mine equipment tires in with automobile tires for abatement purposes is unreasonable. Currently there are no waste tire processing facilities which are capable of handling large tires. Long-distance transportation of them is difficult as well as inordinately expensive. It is not reasonable to require abatement until these problems have been solved.

Furthermore, including large mine equipment tires in with automobile tires for abatement purposes in unnecessary. Mining company tires are stored on their own premises. They are typically remote from human population centers. The risk of fire is practically non-existent. The effect of mining company tires on the mosquito population of the northern Minnesota bogs is negligible.

It is our position that large waste tires generated by mining operations constitute a special case and should be exempted from the abatement rules until such time as there is a reasonable opportunity to dispose of them. We are willing to cooperate with the Waste Management Board in working out a solution to this problem.

WETLANDS

Section 9220.0110 Subpart 22 of the proposed rules begins by defining wetland as follows: "'Wetland' means any area that is covered by standing water during any portion of the year." This definition strikes us as being overbroad. Expressed in this way, it seems to include every mud puddle which might appear after a rain. If standing water is interpreted to include snow, then the definition would make a wetland out of the entire state of Minnesota.

Since the legislature has already taken the trouble of defining wetland (Minnesota Statutes 105.37 Subdivision 15) and since the Minnesota Department of Natural Resources already has a good working definition (Minnesota Rules 6115.1050) we recommend that the Board simply incorporate the existing definition by reference.

Thank you for considering our comments. If you have any questions, please call me at 218-722-0566.

Yours truly,

PICKANDS MATHER & CO.

Charles B. Hoffman

Charles B. Hoffman
Government Relations Counsel

CBH/plk

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the matter of the Rule Amendments
Governing Waste Tire Abatement,
Minn. Rules pts. 9220.0100-0180.

DECLARATION OF COUNSEL

I, Ann E. Cohen, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0838.

Ann E. Cohen
Special Assistant
Attorney General

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

April 5, 1988

Rec'd 4/07/88

Ms. Christie Eller
Assistant Attorney General
Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Re: In the Matter of Proposed Rules Governing Waste Tire Abatement, Minn. Rules Parts 9220.0100-.0180

Dear Ms. Eller:

On March 29, 1988, the Minnesota Waste Management Board adopted the above-captioned rules governing Waste Tire Abatement. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).

3. Certificate of Resolution Adopting Rules.

4. Authorization to Proceed with Adoption, Amendment or Repeal of Rules Without a Public Hearing.

5. Certificate of Authorizing Resolution.

6. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (12 S.R. 1704, February 15, 1988).

7. Comments received during the comment period.

8. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.

9. Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing and Certificate of Mailing List.

10. Rules as proposed.

11. Statement of Need and Reasonableness.

12. Declaration of Counsel.

Very truly yours,

ANN E. COHEN
Special Assistant
Attorney General

AEC:mti

Enclosures

RECEIVED