

Chapter NR 555

WASTE TIRE REMOVAL AND RECOVERY

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Note: Chapter NR 555 was created as an emergency rule effective December 19, 1988 and March 9, 1990.

Subchapter I - General

NR 555.01 Purpose. The purpose of this chapter is to establish the plan for the use of funds to implement a waste tire removal and recovery program required under s. 144.798 (2), Stats.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

NR 555.02 Applicability. This chapter establishes the structure which the department will follow to implement a waste tire removal and recovery program. Included in this chapter are:

(1) The amount of monies set aside for waste tire stockpile cleanup, reimbursement grants, and waste tire management or recovery grants.

(2) The eligible uses, eligibility, application procedure, reimbursement rate and the processing and approval of grant applications to reimburse people who beneficially use waste tires.

(3) The priorities and procedures the department will follow to use funds to clean up existing waste tire stockpiles including guidelines to seek cost recovery.

(4) The eligible uses, eligibility, application procedure, grant fund limitations, and processing and approval of applications to obtain grants for waste tire management or recovery activities.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

NR 555.03 Definitions. The following definitions apply to this chapter:

(1) "Crumb" means tire chips no greater than ¼ inch in any dimension that have been processed to remove steel or other material existing in waste tires.

(2) "Department" means the department of natural resources.

(3) "End user" means the person who utilizes the heat content or other form of energy from the incineration, combustion or pyrolysis of waste tires or the last person who uses the tires, chips, crumb or similar materials to make a product with economic value. If the waste tire is processed

by more than one person in becoming a product, the "end user" is the last person to use the tire as a tire, tire chips, crumb or similar materials. End user does not include a person who produces tire chips or similar materials and gives or sells them to another person to use.

(4) "Nuisance" has the meaning specified in s. 144.449 (1) (a), Stats.

(5) "Nuisance abatement activity" means the procedures specified in s. 144.449 (2), Stats.

(6) "Pyrolysis" means the subjection of organic compounds to very high temperatures and the resulting decomposition.

(7) "Recovery activity" has the meaning specified in s. 144.798 (1) (a), Stats.

(8) "Tire buffings" means small pieces of a tire which have been mechanically removed prior to retreading.

(9) "Tire dump" has the meaning specified in s. 144.449 (1) (b), Stats.

(10) "Waste tire" has the meaning specified in s. 84.076, Stats.

(11) "Waste tire management or recovery grant" means a grant paid under subch. IV.

(12) "Waste tire reimbursement grant" means a grant paid under subch. III.

(13) "Waste tire stockpile cleanup" means an activity designed to clean up a nuisance tire dump under the authority specified in s. 144.449, Stats.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

NR 555.04 Expenditure plan. (1) EXPENDITURE. In order to implement the waste tire removal and recovery program, the department intends to expend funds set aside in s. 20.370 (2) (dj), Stats., on an annual basis, in the following manner:

Note: Based upon estimates of new vehicle registration supplied by the department of transportation the annual amount of money collected from the \$2 per tire fee specified in s. 342.14 (1m), Stats., is estimated to be approximately \$3.3 million dollars annually. Approximately \$2 million has been set aside by the legislature in s. 20.370 (2) (dL), Stats., to administer the waste tire program. The remaining funds will be used to clean up existing stockpiles, provide reimbursement grants, and waste tire management or recovery grants.

(a) *Waste tire stockpile cleanup.* Approximately \$2.1 million shall be used to contract for the cleanup of waste tire stockpiles following those procedures identified in subch. II.

(b) *Waste tire reimbursement grants.* Approximately \$.75 million shall be used to provide grants to end users of waste tires under subch. III.

(c) *Waste tire management or recovery grants.* Approximately \$.25 million shall be used to provide grants for waste tire management and innovative waste tire recovery activities under subch. IV.

(2) ALLOCATION OF ANNUAL EXPENDITURES. (a) If annual revenues are less than \$3.1 million, the department shall allocate funds according to the following priority:

1. Waste tire stockpile cleanup;
2. Waste tire reimbursement grants;

(a) Documentation that the applicant is an eligible end user of waste tires.

(b) A description of the proposed use of the waste tires.

(c) A description of the proposed source of the waste tires, including the procedures that the applicant will use to insure that at least 95% of the waste tires will have been generated in Wisconsin.

(d) An estimate of the total number of pounds of waste tires to be used in the calendar year, including the procedures that the applicant will use to document the total number of pounds used.

(e) Other information requested by the department to establish eligibility.

(3) **APPROVAL PROCEDURES.** (a) Within 30 days of the receipt of an application for advance certification the department may request any additional information needed to complete the application. An application is not complete until the additional information requested by the department has been received.

(b) Before an advance certification is issued the applicant shall establish to the department's satisfaction that:

1. The applicant is an eligible end user as defined in s. NR 555.03.
2. The use being proposed is an eligible use under s. NR 555.10.
3. The applicant will be able to document that at least 95% of the waste tires used were generated in Wisconsin.
4. The applicant will be able to document the number of pounds of waste tires to be used.

(c) If the department determines that the applicant for advance certification is eligible, it shall issue an advance certification within 60 days of receipt of a complete application.

(d) To ensure that a use continues to be eligible for reimbursement, the department may require an applicant who has received advance certification to resubmit an application for advance certification during the calendar year.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

NR 555.12 Request for reimbursement. (1) GENERAL REQUIREMENTS. No request for reimbursement may be approved unless the applicant has received an advance certification from the department under s. NR 555.11. A request for reimbursement shall be submitted to the department by March 1 of the calendar year following the calendar year in which the tires were used.

(2) **CONTENTS.** A request for reimbursement shall be made on forms provided by the department and shall contain the following:

Note: Forms to request reimbursement may be obtained, at no charge, from the Bureau of Solid and Hazardous Waste Management, Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707.

(a) Documentation acceptable to the department of the net pounds of waste tires used in the quantity of product sold, purchased or used.

1. For tire-derived fuel, receipts showing tons of tire-derived fuel purchased or used.

2. For incineration of whole tires producing process heat, steam or electricity, records showing net tons of waste tires combusted.

3. For pyrolysis plants producing electricity or process heat or steam, billings showing sales of kilowatt hours or tons of steam produced by the tire pyrolysis, calculations certified by a professional engineer showing how many net pounds of waste tires were required to generate that amount of energy, and receipts or bills of lading for the number of waste tires actually used to produce the energy.

4. For pyrolysis technologies producing combustible hydrocarbons and other salable products, billings to customers showing amounts of pyrolysis derived products sold in gallons, pounds, or other appropriate units with calculations certified by a professional engineer showing the number of net pounds of waste tires including embedded energy, used to produce those products.

5. For end users of tire strips, chunks, rubber chips, crumb and the like in the manufacture of another product, billings to purchasers for the product sold, showing net pounds of waste tires used to manufacture the amount of product sold.

6. For end users of tire chips in rubberized asphalt, or as road bed material, driveway cover and other highway improvements, billings or receipts showing the net pounds of waste tires used.

(b) Provide any other information required by the department necessary to determine whether the proposed use is in accordance with departmental rules.

(2) PROCESSING AND APPROVAL. (a) Within 30 days of the receipt of a request for reimbursement the department may require that additional information be supplied by the applicant to complete the request. The request for reimbursement is not complete until the additional information has been received by the department.

(b) By July 1 each year the department shall calculate the total dollar amount of eligible reimbursement requested at \$.01 per pound and shall make payment in that amount to the applicant to the extent that funds are available for that purpose as specified in s. NR 555.04 (2) (c).

(c) An applicant for a reimbursement for use of waste tires, tire chips or similar materials is subject to audit by the department and shall allow the department access to all records during normal business hours for the purpose of determining compliance with these rules for a period of 3 years following final payment.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

Subchapter IV - Waste tire management or recovery grants

NR 555.13 General requirements. (1) ELIGIBLE APPLICANTS. A municipality, governmental body as defined in s. 19.82, Stats., private business or nonprofit organization may apply to the department for a waste tire management or recovery grant if at least 95% of the waste tires involved in the activity are received from Wisconsin tire dumps, retailers or residents.

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(2) **ELIGIBLE PROJECTS.** (a) Projects that are eligible for a waste tire management grant include projects whose primary purpose is to divert the stream of waste tires from illegal stockpiling by controlling the transportation and storage of waste tires and by enhancing the availability of facilities for their collection, transportation and storage. Eligible waste tire management projects include the following:

1. The development or operation of a waste tire collection program.
2. The development or operation of a public education program for waste tire management.
3. The enforcement of local regulations relating to waste tire management.

(b) Projects that are eligible for a waste tire recovery grant include projects whose primary purpose is to develop new technologies for the reuse of waste tires or improve existing technologies in order to expand the market for waste tires. Eligible waste tire recovery projects include the following:

1. Research and development of technology to reuse waste tires, including the technical, environmental, economic, legal and marketing aspects of the proposed recovery activity.
2. Process testing, piloting, including engineering design of a plant, process or system.

(3) **INELIGIBLE PROJECTS.** Projects that are not eligible for a waste tire management or recovery grant include the following:

- (a) Projects solely for the preparation of a feasibility study.
- (b) Projects involving the landfilling of waste tires.

(4) **ELIGIBLE COSTS.** Eligible costs include the reasonable and necessary costs of:

- (a) Staff salary, fringe benefits and travel costs.
- (b) Equipment rental and operation of a test process.
- (c) Professional assistance with project planning, finance, legal affairs, marketing, engineering and environmental evaluations, when performed in conjunction with the operation of a process or system for waste tire recovery.

- (d) Printing brochures and other public educational material.
- (e) Specific costs of construction as approved by the department.

(5) **INELIGIBLE COSTS.** Ineligible costs include the following:

- (a) The costs of capital equipment.
- (b) The costs of preparing license or permit applications.
- (c) License applications or permit fees.
- (d) Waste tires purchased as a raw material or feedstock.
- (e) Costs incurred prior to the issuance of a grant award by the department.

(f) Costs incurred after the expiration date of the grant award under s. NR 555.16.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91.

NR 555.14 Application. (1) **CONTENTS.** An application for a waste tire management or recovery grant shall be submitted on forms provided by the department and shall contain the following information:

Note: Application forms may be obtained, at no charge, from the Bureau of Solid and Hazardous Waste Management, Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707.

(a) A resolution by the governing body or management of the applicant which:

1. Authorizes the application and identifies an authorized representative to act on behalf of the applicant.

2. Represents that the applicant will carry out all proposed activities as described in the grant application and approved for grant funding by the department.

3. Represents that the applicant will maintain appropriate records to document expenditures for which cost sharing will be claimed.

4. Authorizes department employees access to inspect projects sites and records upon request during normal business hours.

(b) A description of the proposed project identifying the location of the activity, the sources and estimated amount of waste tires to be used or managed, the activity or processes involved, the expected goals or products to be produced and the estimated market potential for any products which may result from the project.

(c) A project budget, including proposed funding sources, a detailed estimate of the total project cost and proposed eligible costs under s. NR 555.13 and documentation of how the estimate was made.

(d) A proposed timetable for completion of the project showing the estimated dates of completion of major project components.

(e) Other information as requested by the department to determine compliance with this chapter.

(2) **APPLICATION DATE.** The department shall review and process applications annually. To be considered for funding priority under s. NR 555.15, a completed application shall be received by the department by March 1, of each year, or within 45 days of February 1, 1991.

(3) **TRADE SECRETS.** The applicant may designate any information submitted under sub. (1) as a trade secret and request that the information be treated as confidential in accordance with s. NR 2.19. The burden of establishing the need for confidential treatment of the information shall be on the applicant.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91.

NR 555.15 Priority. (1) All grants shall be subject to the availability of funding. If funding is not sufficient for all completed applications received by March 31, the department shall assign priority to applications for grants under this subchapter according to the following criteria:

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(a) Projects to develop a new activity or to expand an existing activity shall have priority over projects to operate an existing activity. The score for this criterion shall range from 0 to 10 points.

(b) Projects which have the potential to substantially increase the market for waste tires or to substantially reduce the number of waste tires that are disposed of illegally or landfilled shall have priority. The score for this criterion shall range from 0 to 5 points.

(c) Projects in which the participants have the qualifications and personnel to manage the project and perform the technical work required shall have priority. In making this determination, the department may consider the applicant's previous history on similar projects. The score for this criterion shall range from 0 to 5 points.

(d) Projects may receive an additional score of one point for each of the following criteria:

1. Projects for the reuse or recycling of waste tires shall have priority over projects for the recovery of energy from waste tires.

2. Projects which do not duplicate an ongoing waste tire management or recovery activity.

3. Projects which have the potential to fully implement a reuse technology or management activity within 2 years.

4. Applications which are complete and well prepared at the time of submission.

5. Projects which are the most cost effective as determined by the potential for the greatest number of waste tires managed or recovered for each grant dollar requested.

(e) If 2 or more applications receive the same total score for the criteria under pars. (a) through (d), the department may use the following additional criteria to determine priorities. One tenth of a point may be awarded for each of the following:

1. Projects which are regional or statewide in nature.

2. A project to test or develop the use of waste tires as a surfacing material, structural material or fill for a highway improvement project.

3. A cooperative project which involves the joint participation of 2 or more municipalities, governmental bodies, nonprofit organizations or businesses.

(2) If funds are insufficient for all completed applications received by March 31, the department shall rank the applications and award grants by descending order of priority scores until available funds are depleted.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91.

NR 555.16 Grant awards. (1) The department may issue a grant award after it has determined that the project is eligible and has priority for available funds.

(2) The maximum amount of a grant award, including amendments, shall not exceed 50% of the eligible project cost or \$50,000, whichever is less.

(3) The grant award project period shall expire one year from the date of issuance of the grant award unless an extension is requested by the grantee and approved in writing by the department.

(4) The department may amend a grant award for major changes in project scope if it determines that the changes are necessary to meet the objectives of this subchapter. Any requests for a grant amendment shall be made and fully documented by the grantee. Any amendments to a grant award shall be made in writing and mutually agreed to by the grantee and the department. The department's approval of grant amendments shall be subject to the availability of funds.

(5) The department may cancel a grant award if the grantee does not accept the grant award within 45 days of issuance by the department.

(6) The department may terminate an accepted grant and the grantee shall return the full amount of payments received, if any, if the department determines that:

(a) There has been no substantial performance of the project;

(b) There is substantial evidence that the grant was obtained by fraud;
or

(c) There is substantial evidence of gross abuse or corrupt practices by the grantee in carrying out the project.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91.

NR 555.17 Payments. (1) The grantee may request an interim grant payment of up to 50% of the total grant amount, for costs incurred during the project period. A request for an interim grant payment shall be made on forms provided by the department and shall include documentation of work completed, eligible costs incurred and proof of payments made by the grantee.

Note: Payment request forms may be obtained, at no charge, from the Bureau of Solid and Hazardous Waste Management, Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707.

(2) The grantee shall request final payment no later than 60 days after the expiration date of the grant award. The request for final payment shall be made on forms provided by the department and shall include:

(a) Documentation of eligible costs incurred and proof of payments made.

(b) Documentation showing the source of any waste tires recovered or managed under the grant project.

(c) A written final report of all activities conducted under the grant project, including:

1. Achievements, limitations and shortcomings with respect to the originally stated project goals and objectives.

2. A description of all project modifications that may have occurred and the reasons why these modifications were necessary.

3. A detailed presentation of all technical findings, both positive and negative.

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4. Public information and educational activities, if applicable.

5. Conclusions and final recommendations, including an evaluation of the technical effectiveness, environmental effects and economic feasibility of continuing or expanding the management or recovery activity.

6. An appendix that includes all references and supporting documents appropriate to the final report.

(3) Final payment of the grant shall be paid to the grantee after documentation of satisfactory project completion, eligible costs incurred and proof of payment by the grantee have been audited by the department.

(4) The grantee shall retain all records pertaining to the project for a period of 3 years after the date of the final settlement and allow the department access to all records during normal business hours for the purposes of determining compliance with these rules.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91.

NR 555.18 Variances. The department may approve in writing a variance from a requirement of this chapter upon the written request of an applicant or a grantee when the department determines that a variance is essential to effect necessary grant actions or program objectives and where special circumstances make a variance in the best interest of the program. Before approving a variance, the department shall take into account factors such as good cause, circumstances beyond the control of the applicant or grantee and financial hardship. The department may not grant a variance from a statutory requirement.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91.