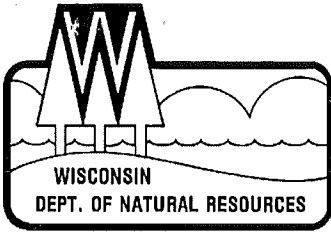


CR 94-209



George E. Meyer
Secretary

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

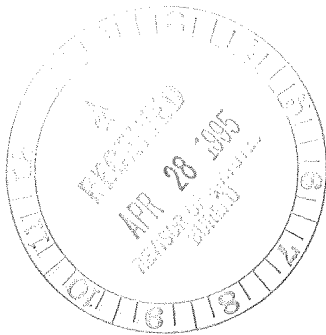
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STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. SW-37-94 was duly approved and adopted by this Department on January 26, 1995. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 20th day of April, 1995.



George E Meyer
George E. Meyer, Secretary

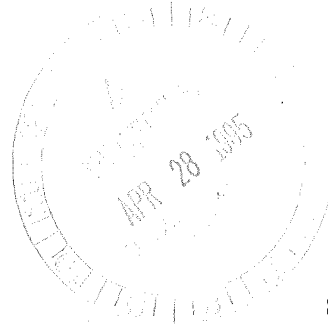
(SEAL)



6-1-95

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
RENUMBERING, AMENDING, REPEALING & RECREATING & CREATING RULES

IN THE MATTER of renumbering NR 555.03(6) to (13), 555.09(4), and 555.16(3) to (6); amending ss. NR 555.01, NR 555.03(7), NR 555.07(2), 555.04(1)(c), 555.08(1), 555.10(1)(c), 555.11(1)(b), (2)(a), (d), (3)(b)1 & 4, 555.12(2)(a) and 555.16(1) & (2); repealing and recreating s. NR 555.08(2), 555.09(1) to (3); and creating ss. NR 555.03(6), 555.09(4), 555.12(2)(a)7 and 555.16(3) of the Wisconsin Administrative Code relating to the waste tire removal and recovery program



SW-37-94

Analysis Prepared by the Department of Natural Resources

Authorizing statutes: ss. 144.449, 159.17 and 227.11(2)(a), Stats.
Statutes interpreted: ss. 144.449 and 159.17 Stats.

The proposed rule changes modify the fee use plan contained in ch. NR 555 which allows the Department of Natural Resources to use funds set aside in s. 20.370(2)(dj), Stats., to implement a waste tire removal and recovery program. The proposed changes would modify the current fee use plan by:

1. Adding a new reimbursement grant program to assist businesses which process waste tires,
2. Changing the focus of the current and the new reimbursement grant program towards the annual generation of waste tires instead of the clean-up of existing stockpiles,
3. Changing the reimbursement grant program to encourage more recycling of waste tires into products.
4. Establishing a timetable when the reimbursement grant program would terminate, and
5. Lessening the financial share requirement that local units of government must contribute to obtain grants for managing waste tires in their communities and limiting the amount of money spent for waste tire recovery grants.

The additional reimbursement grants to processors are intended to lower the overall cost of processing tires by reducing the tipping fees charged to businesses and thereby encouraging more reuse and less reliance on dumping. In spite of the fact that a market exists for all waste tires generated, many tires do not get recycled because of cheap landfilling or stockpiling in

nearby states by haulers seeking to make more profit by capitalizing on low cost disposal alternatives. The migration of waste tires to these types of disposal practices threaten investments already made by businesses to process or reuse the material.

The proposed rule would also shift the focus of the existing reimbursement grant program (to end users) and the proposed reimbursement grant program (to processors) to the annual generation of tires rather than the clean-up of existing stockpiles. When the waste tire program was initially developed, the reimbursement grant program was put in place to rapidly stimulate a market for waste tires so that the Department could clean-up the very large stockpiles that needed to be addressed first as mandated by state law. Secondly, the reimbursement grant was intended to develop a longer term market for the material. Both of these objectives have been accomplished but there still exists a need to divert more waste tires that are generated annually towards reuse and to support the market for a time period before government assistance is no longer needed to directly support the management of the wastestream towards reuse.

The existing and proposed reimbursement grant program would also be changed to encourage more waste tires be recycled into products. This change is accomplished by increasing the monetary level of assistance towards product use.

The proposed rule would also set a date in the future for the reimbursement grants to sunset. Establishing a date would also allow those companies involved in the waste tire business sufficient time to adjust and structure their operations appropriately to deal with termination of governmental assistance to support the wastestream infrastructure. The goal in this portion of the proposed rule is that the private sector would be capable of handling the transport, processing and end use of all tires generated annually in the state under the oversight of the Department through the licensing of operations of businesses involved in the wastestream.

Lastly, the proposed rule would increase the amount of financial assistance in the waste tire management or recovery grant program to local units of government involved in the management of waste tires in the household wastestream. Recently adopted recycling rules would mandate that communities must have programs in-place to collect process and market recyclables collected from single family residences. The proposed rule increases the state-share portion of the project costs awarded in a grant from 50% to 75%. The increase in the state portion of the grant would encourage greater participation by local units of government.

Minor housekeeping changes are also contained in these proposed rules which reflect the major changes described above.

SECTION 1. NR 555.01 is amended to read:

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)~~ s. 159.17, Stats.

SECTION 2. NR 555.03(6) to (13) are renumbered (7) to (14) respectively.

SECTION 3. NR 555.03(6) is created to read:

NR 555.03(6) "Processor" means the person who produces shredded tire chips, crumb or similar materials from a waste tire and gives or sells them to an end user. If the waste tire is processed by more than one person, the last person to process the waste before it is used by an end user is the processor.

SECTION 4. NR 555.03(8), as renumbered, is amended to read:

NR 555.03(8) "Recovery activity" has the meaning specified in ~~s. 144.798(1)(a)~~ s. 159.17(1)(a), Stats.

SECTION 5. NR 555.04(1)(c) is amended to read:

NR 555.04(1)(c) Waste tire management or recovery grants. Approximately ~~\$.25~~ \$.20 million shall be used to provide grants for waste tire management activities and approximately \$.05 million shall be used to provide grants for innovative waste tire recovery activities under subch. IV.

SECTION 6. NR 555.07(2) is amended to read:

NR 555.07(2) OTHER RECOVERY ACTIVITIES BY THE DEPARTMENT. For those waste tire dumps which received less than 95% of its waste tires from Wisconsin retailers or residents, the department will follow those procedures specified in ~~s. 144.798(5)~~ s. 159.17(5), Stats.

SECTION 7. NR 555.08(1) is amended to read:

NR 555.08 REIMBURSEMENT GRANT. (1) PURPOSE. In order to enhance and sustain available and new markets for the reuse of waste tires so that their value is recovered, an economically attractive alternative to landfilling ~~shall and stockpiling should~~ be in place. To create these markets, financial

assistance is necessary to develop and operate waste tire recovery activities. Financial assistance may be provided in the form of a reimbursement grant to end users and processors of waste tires for the cost of developing or operating these waste tire recovery activities. Development and operating costs are those costs required to expand existing or new markets designed to reduce the number or volume of recycled waste tires, recycle waste or recover energy from waste tires and to sustain that market.

SECTION 8. NR 555.08(2) is repealed and recreated to read:

NR 555.08(2) AMOUNT OF REIMBURSEMENT. (a) If the applicant is an end user, the amount of reimbursement shall be \$.01/lb. of that portion of the waste tires used for those eligible uses specified in s. NR 555.10(1)(a), (b), (d)1., (d)2. and (e) and the amount of reimbursement shall be \$.02/lb. of that portion of the waste tires used for those eligible uses identified in s. NR 555.10(1)(c) and (d)3.

(b) If the applicant is a processor, the amount of reimbursement shall be \$.01/lb. of waste tires processed and subsequently used by an end user for those eligible uses specified in s. NR 555.10(1)(a), (b), (d)1., (d)2. and (e) and the amount of reimbursement shall be \$.02/lb. of waste tires processed and used for those eligible uses identified in s. NR 555.10(1)(c) and (d)3.

SECTION 9. NR 555.09 is repealed and recreated to read:

NR 555.09 REIMBURSEMENT GRANT ELIGIBILITY. (1) GENERAL REQUIREMENTS. A municipality, governmental body as defined in s. 19.82, Stats., private business or nonprofit organization which is an end user or processor of waste tires may apply to the department for a waste tire reimbursement grant if:

(a) At least 95% of the waste tires used or processed were generated in Wisconsin.

(b) The waste tires are used or processed for those eligible uses identified under s. NR 555.10(1).

(c) The applicant has received advance certification from the department under s. NR 555.11.

(2) ELIGIBLE END USER. To be eligible for a reimbursement grant under this section, an end user shall meet all of the following requirements in addition to the requirements specified in sub.(1):

(a) The eligible use shall be conducted after June 1, 1990 and before January 1, 1997.

(b) The waste tires that are used after June 1, 1995 may not originate from clean-up sites specified in ss. NR 555.05 and 555.06 where state funds are used to contract for the cleanup.

(3) ELIGIBLE PROCESSOR. To be eligible for a reimbursement grant under this section, a processor shall meet all of the following requirements in addition to the requirements specified in sub. (1):

(a) The waste tires shall be processed after January 1, 1992 and before January 1, 1997.

(b) The waste tires that are processed may not originate from clean-up sites specified in ss. NR 555.05 and 555.06 where state funds are used to contract for the cleanup.

SECTION 10. NR 555.10(1)(c) is amended to read:

NR 555.10(1)(c) Highway improvements, including the use of tire chips or ~~waste tires as a road base, crumb~~ physically blending ~~tire chips blended~~ with another material such as asphalt, ~~or other permanent highway improvement project.~~

SECTION 11. NR 555.11(1)(b) is amended to read:

NR 555.11(1)(b) An application for advance certification shall be submitted to the department by March 1 of the calendar year for which advance

certification is sought, or within 60 days ~~of June 1, 1990~~ after the effective date of this order... [revisor insert date].

SECTION 12. NR 555.11(2)(a) and (d) are amended to read:

NR 555.11(2)(a) Documentation that the applicant is an eligible user or processor of waste tires.

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

SECTION 13. NR 555.11(3)(b)1 and 4 are amended to read:

NR 555.11(3)(b)1. The applicant is an eligible end user or processor ~~as defined in s. NR 555.03.~~

4. The applicant will be able to document the number of pounds of waste tires to be used or processed.

SECTION 14. NR 555.12(2)(a) is amended to read:

NR 555.12(2)(a) Documentation acceptable to the department of the net pounds of waste tires processed and used in the products sold, purchased or used.

SECTION 15. NR 555.12(2)(a)7. is created to read:

NR 555.12(2)(a)7. For processors of waste tires, receipts showing total tons or numbers of waste tires received and processed and their origin and total tons of waste tires used by eligible end users who bought or accepted the waste tires.

[Drafters Note to Revisor: Please renumber the second s. NR 555.12(2) to be 555.12(3).]

SECTION 16. NR 555.16(2) is amended to read:

NR 555.16(2) The maximum amount of a grant award for waste tire recovery projects, including amendments, may not exceed 50% of the eligible project cost or \$50,000, whichever is less.

SECTION 17. NR 555.16(3) to (6) are renumbered NR 555.16(4) to (7).

SECTION 18. NR 555.16(3) is created to read:

NR 555.16(3) The maximum amount of a grant award for waste tire management projects, including amendments may not exceed 75% of the eligible cost or \$50,000 whichever is less.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on January 26, 1995.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin

4/20/95

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By

George E Meyer

George E. Meyer, Secretary

(SEAL)

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