

Limits on Tire Storage at Auto Salvage Yards

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This document discusses the maximum number of tires that can be stored at an auto salvage yard, without a solid waste storage license being required by the Department of Natural Resources. Section 289.55, Wis. Stats., the DNR's stormwater permits, and the Waste and Materials Management Program's priorities are considered.

Question: Is a salvage yard allowed to store up to 500 tires or up to 1,300 tires without a storage license? Section NR 502.05, Wis. Adm. Code, does not specify a minimum number of tires, which are subject to that rule. However, s. 289.55(3)(c), Wis. Stats., indicates that storage of 500 tires at auto salvage yards is presumed not to be a nuisance. In addition, the best management practice for the stormwater permit developed for the Cooperative Compliance Program (CCP) for the auto salvage yard industry references a maximum of 1,300 motor vehicle tires may be stored in compliance with the BMPs.

Answer: A salvage yard involved in the CCP may store up to 1,300 motor vehicle tires without a solid waste storage license.

Both the 500 and 1,300-tire limit are valid and they do not conflict. Section 289.55, Wis. Stats., provides the DNR with authority to order the abatement of a nuisance caused by a tire dump. Subsection 289.55(3), Wis. Stats., states that the overall s. 289.55, Wis. Stats. does not apply to certain situations and sites that are listed. Paragraph (c) of that subsection states that s. 289.55, Wis. Stats. does not apply to "A premises where tires are removed from motor vehicles in the ordinary course of business if no more than 500 waste tires are kept on the premises at one time." The 500-tire threshold does not mean that a storage pile containing over that number is presumed to be a nuisance. It does suggest that there is little need for the department to regulate these facilities by requiring a license under s. NR 502.05, Wis. Adm. Code.

The DNR's stormwater permits reference "best management practices" (BMPs) and for auto salvage yards, one of the BMPs that is specified is that they not store more than 1,300 waste tires or roughly one semi load. A salvage yard storing up to 1,300 tires in a nuisance free manner (e.g. in a semi-trailer or a separate pile, which presents no unreasonable fire or mosquito threat) is complying with the BMPs and would not appear, as a matter of Program priorities, to warrant requiring licensure under s. NR 502.05, Wis. Adm. Code. A salvage yard storing more than 1,300 tires would not be complying with the BMPs and the Cooperative Compliance Program. It would need a solid waste storage license, unless the tire storage met one of the other exemption criteria in s. NR 502.05, Wis. Adm. Code. A salvage yard that stores more than 1,300 tires, even though it would not be in compliance with the CCP, would not necessarily be automatically creating a nuisance or be automatically in violation of its stormwater permit.

Contact DNRWasteMaterials@Wisconsin.gov for further information.

Disclaimer: This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

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Pursuant to ch. 227, Wis. Stats., the Wisconsin Department of Natural Resources has finalized and hereby certifies the following guidance document.

DOCUMENT ID

WA-19-1006-C

DOCUMENT TITLE

Limits on Tire Storage at Auto Salvage Yards

PROGRAM/BUREAU

Waste and Materials Management

STATUTORY AUTHORITY OR LEGAL CITATION

Ch. 289, Wis. Stats.; ch. NR 502, Wis. Adm. Code

DATE SENT TO LEGISLATIVE REFERENCE BUREAU (FOR PUBLIC COMMENTS)

11/25/2019

DATE FINALIZED

December 18, 2019

DNR CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

A handwritten signature in black ink, appearing to read 'Joseph P. Van Rossum'.

December 18, 2019

Signature

Date