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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Underground Storage Tanks and Solid Waste Disposal Control Board
Division:	Solid Waste Management
Contact Person:	Jeremy Hooper
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Revision Type (check all that apply):

☐ Amendment
☒ New
☐ Repeal
☐ Content based on previous emergency rule filed on _____
☐ Content is identical to the emergency rule

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0400-11-04	Waste Tire Manifesting Requirements and Waste Tire Hauler Registration Program
Rule Number	Rule Title
0400-11-04-.01	Purpose and Applicability
0400-11-04-.02	Definitions
0400-11-04-.03	Registration
0400-11-04-.04	Terms and Conditions
0400-11-04-.05	Manifest
0400-11-04-.06	Financial Assurance
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Chapter Number	Chapter Title
0400-11-05	Waste Tire Disposal Site Cleanup Funds
Rule Number	Rule Title
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0400-11-05-.02	Definitions
0400-11-05-.03	Administrative Requirements
0400-11-05-.04	Evaluation Criteria
0400-11-05-.05	Reports
0400-11-05-.06	Restrictions

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/publications/services/rulemaking-guidelines>.

New Rules

Chapter 0400-11-04

Waste Tire Manifesting Requirements and Waste Tire Hauler Registration Program

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0400-11-04-.07 Grounds for Denial, Revocation, or Suspension

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-1101 et seq.

0400-11-04-.01 Purpose and applicability.

- (1) The purpose of this chapter is to establish [waste tire manifesting requirements and](#) a waste tire hauler registration program to track and regulate the transportation of waste tires from the point of generation until delivered for permitted storage, processing, or disposal.
- (2) Applicability.
 - (a) This chapter applies to any person who commercially generates, transports, processes, stores, or disposes of waste tires in this state, unless such person is otherwise specifically exempted by these rules or state or federal law. [This chapter also applies to:](#)
 1. A person who transports waste tires into this state for the purposes of storage, processing, or disposal; or
 2. A person who transports waste tires out of this state for the purpose of storage, processing, or disposal.
 - (b) These rules shall not apply to the following:
 1. Government entities, except government entities that are waste tire receivers as defined by paragraph (13) of Rule 0400-11-04-.02;
 2. Persons who are not hauling waste tires commercially, including farmers hauling their own waste tires; and
 3. Tires that are not waste tires, as defined in Rule 0400-11-04-.02, such as new tires generated by a tire manufacturer, or off-specification tires generated in connection with both the tire manufacturing process and the motor vehicle original equipment manufacturing process.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-1101 et seq.

0400-11-04-.02 Definitions.

Unless otherwise defined in this rule, the definitions found in T.C.A. § 68-211-1101 and Rule 0400-11-01-.01 shall apply when those terms are used in this chapter. In addition, when used in this chapter, the following terms have the meanings given below:

- (1) "Applicant" means a person seeking to register as a waste tire hauler with the Department;
- (2) "Beneficial end use" has the same meaning as in T.C.A. § 68-211-867;
- (3) "Local government entity" means any city, county, municipality, or other political subdivision created pursuant to the laws of this state;
- (4) "Manifest" means the form used for identifying the quantity, origin, routing, and destination of waste tires during transportation from the point of generation to the point of disposal, treatment, or storage;
- (5) "Registrant" means a person registered with the Department as a waste tire hauler;
- (6) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle;
- (7) "Tire disposal" means to deposit, dump, spill, or place any waste tire, processed tire, or residuals into or upon any land or water;
- (8) "Tire recycling" means any process by which waste tires, processed tires, or residuals are reused or returned to use in the form of products or raw materials;
- (9) "Waste tires" means tires that have been previously used in the regular operation of a motor vehicle and have not been processed for beneficial end use or shredded for disposal;
- (10) "Waste tire generator" means any person whose action or process produces a waste tire, or whose action first causes a waste tire to become subject to regulation. This term does not apply to a person who creates the wear on, or the damage to, a tire that necessitated the need for the tire to be replaced by a commercial vendor;
- (11) "Waste tire hauler" means a person engaged in the commercial transporting of waste tires for the purpose of storage, processing, or disposal;
- (12) "Waste tire processing facility" means a solid waste processing facility where equipment is used to recapture reusable by-products from waste tires or to cut, burn, or otherwise alter whole waste tires so they are no longer whole. The term includes mobile waste tire processing equipment, waste tire pyrolysis units, and waste tire baling or compacting equipment; and
- (13) "Waste tire receiver" means a permitted landfill, waste tire processing facility, waste tire storage facility, county and municipal government accepting waste tires in compliance with T.C.A. Title 68, Chapter 211, Part 8, recovered materials processing facility, as defined in paragraph (2) of Rule 0400-11-01-.01, and operating in compliance with subpart (1)(b)3(xxii) of Rule 0400-11-01-.02, or at a facility authorized to manage waste tires in Tennessee or other states that receives waste tires from a waste tire hauler.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-1101 et seq.

0400-11-04-.03 Registration.

- (1) Waste tire haulers shall register with the Department as provided in this rule.
- (2) Waste tire hauler registrations shall expire annually on March 31.
- (3) Initial applications shall be submitted on forms provided by the Department at least 30 days prior to transporting waste tires.
- (4) Renewal applications shall be submitted on forms provided by the Department at least 30 days prior to the expiration date of a current registration.
- (5) One applicant may register a fleet of vehicles affiliated with the same business entity if the applicant pays the [\\$100](#) registration fee for each vehicle used to commercially transport waste tires.
- (6) Registration [and renewal](#) applications shall include the following:

- (a) The name of the applicant;
 - (b) The applicant's contact information, including physical and mailing address (if different), phone number, and email address;
 - (c) Location where the records required by this chapter will be maintained;
 - (d) The corporate form of the applicant, if applicable (e.g., general partnership, limited liability company, etc.), and the identity of all officers and owners;
 - (e) A \$100 registration fee for each vehicle used to commercially haul waste tires by the applicant;
 - (f) Proof of general liability insurance;
 - (g) Identification of the approximate number of waste tires to be hauled per calendar month or, for renewal applications, the number of waste tires hauled during the previous calendar year;
 - (h) Identification of all waste tire receivers the applicant will transport waste tires to for storage, waste tire processing, disposal, regardless of whether the facility locations are within Tennessee;
 - (i) Proof of submission of all performance bonds, or other financial assurance, required by the Commissioner;
 - (j) For renewal applications, a copy of the manifests required by paragraph (6) of Rule 0400-11-04-.04 and T.C.A. § 68-211-1103;
 - (k) If the applicant is a business entity, the applicant shall provide proof of the active registration as a domestic or foreign business entity, as appropriate, in good standing with the Tennessee Secretary of State;
 - (l) A list of any conviction or entry of a plea of guilty to any crime by the applicant or, if the applicant is an entity, any individual that owns at least 10% of the applicant entity, related to the illegal disposal of solid or hazardous waste, including but not limited to waste tires;
 - (m) An acknowledgment that the waste tire hauler agrees to abide by the terms and conditions of this chapter, [Tennessee law](#), and any [applicable rules for and laws that apply to](#) waste tires originating from or transported to states outside of Tennessee; and
 - (n) Any other documentation or information the Commissioner may need to implement this chapter.
- (7) The Commissioner may issue a new registration, or renew an existing registration, to haul waste tires if the Commissioner determines the registration application:
- (a) Is complete and responsive; and
 - (b) Demonstrates that the applicant will, or will continue to, transport waste tires in accordance with all applicable laws and regulations.
- (8) The Commissioner may deny an application submitted pursuant to paragraph (6) of this rule for failure to meet any applicable requirements of this chapter or of T.C.A. Title 68, Chapter 211.
- (9) The Commissioner may revoke or suspend an applicant's registration at any time for failure to comply with applicable requirements of this chapter, or of T.C.A. Title 68, Chapter 211.
- (10) Decals.
- (a) Registered waste tire haulers shall display an active decal or placard issued by the Department on the driver's door on each vehicle used to transport waste tires.
 - (b) Decals are valid from the date of issue until they expire on March 31 of each year, unless revoked

prior to the expiration date in accordance with paragraph (9) of this rule.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-1101 et seq.

0400-11-04-.04 Terms and Conditions.

- (1) Registrants shall prominently display an active decal or placard on any vehicles hauling waste tires.
- (2) Registrants shall transport waste tires in a manner that controls mosquitoes and prevents their spread.
- (3) Registrants shall only deliver waste tires to a waste tire receiver.
- (4) Registrants shall require ~~that all employees, and agents, contractors, and subcontractors, and their employees, comply compliance~~ with all terms and conditions of registration from all employees, as well as any agents, contractors, or subcontractors and their associated personnel.
- (5) Registrants shall comply with all financial assurance and manifest requirements set forth in this chapter and properly maintain documentation of compliance with such requirements. Manifests must be maintained for a period of three years from the date the manifest is created.
- (6) Registrants shall submit to the Department all manifests completed and retained as required by Rule 0400-11-04-.05 by March 1 of each year covering the previous calendar year.
- (7) By applying for registration, registrants consent to inspection by the Commissioner of ~~the registrant's their~~ facilities ~~at which waste tires are generated, transported, processed, or stored~~ and consent to provide the Commissioner with related records ~~to related to the generation, transportation, processing, or storage of waste tires upon~~ the Commissioner's ~~upon~~ request.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-1101 et seq.

0400-11-04-.05 Manifest.

- (1) A waste tire generator who ~~commercially transports~~ arranges for a waste ~~tires~~ tire hauler to commercially transport their waste tires off the site of generation must prepare a manifest on a form provided, or approved, by the Department containing the following information:
 - (a) Names, contact information, and addresses of the registered waste tire haulers;
 - (b) Names, contact information, and addresses of waste tire generators;
 - (c) Names, contact information, and addresses of the waste tire receivers; and
 - (d) A description and quantity and type (e.g., passenger, truck, tractor, etc.) of waste tires provided by the waste tire generator for shipment or transport.
- (2) The manifest shall consist of at least the number of copies necessary to provide the waste tire generator, the registered waste tire hauler, and any designated storage, waste tire processor, and landfill facility with one copy each for their records, and another copy to be returned to the waste tire generator.
- (3) The waste tire generator shall obtain the printed name and signature of the waste tire hauler responsible for transporting the waste tires on the manifest and shall retain a copy of the signed manifest. A copy of the signed manifest shall accompany the waste tire hauler transporting the waste tires.
- (4) All subsequent persons accepting shipment of waste tires shall print their name and sign the manifest and the previous person in possession of the waste tires shall retain a signed copy of the manifest. The original manifest shall accompany the shipment of the waste tires until the waste tires reach their final destination.
- (5) The waste tire receiver shall verify the accuracy of the information regarding the waste tires and note on the manifest any discrepancy in the quantity or type of waste tires received before signing the manifest and submit a legible copy of the manifest with the note about the discrepancy to the Department within 30 days of receiving the delivery.

- (6) A waste tire hauler shall retain and provide a final completed copy of the manifest containing all information listed in paragraph (1) of this rule and the signatures required by paragraphs (3), (4), and (5) of this rule to the originating waste tire generator within 30 days of collecting the waste tires for transport.
- (7) If the originating waste tire generator does not receive a completed manifest from a waste tire hauler as required by paragraph (6) of this rule within 35 days after providing waste tires to the waste tire hauler, the waste tire generator shall notify the Department in writing within 45 days of shipping the waste tires. The notification must include a legible copy of the manifest for which the generator does not have confirmation of delivery.
- (8) A person required to use, make, or receive a manifest under this rule shall:
 - (a) Retain an updated copy of the manifest during transport of waste tires within the state;
 - (b) Maintain a copy of the manifest for a period of three years from the date the manifest is created; and
 - (c) Provide copies of the manifest to the Department upon request.
- (9) For shipments of waste tires originating outside of Tennessee, a waste tire hauler may use a manifest approved by another state if it contains all of the information listed in paragraph (1) of this rule and complies with paragraph (2) of this rule, or if the manifest is otherwise approved by the Department for use in Tennessee.
- (10) A waste tire hauler must complete any manifest requirements ~~for~~ on behalf of out-of-state waste tire generators or out-of-state waste tire receivers that do not voluntarily comply with this rule. However, the waste tire hauler is not required to sign the manifest on behalf of the out-of-state generators or out-of-state waste tire receivers.
- (11) If a waste tire receiver receives a shipment of waste tires that is not accompanied by a manifest, the waste tire receiver must submit an unmanifested waste tire report to the Department identifying the name and contact information of the waste hauler, and the number and type of waste tires received. The unmanifested waste tire report must be submitted within 15 days of receipt of the unmanifested waste tires.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-1101 et seq.

0400-11-04-.06 Financial Assurance.

- (1) A waste tire hauler must post a performance bond, or other financial assurance, with the Commissioner in an amount established by the Commissioner based on the approximate number of waste tires hauled. In no event shall the amount of financial assurance be less than \$10,000.
- (2) Financial assurance shall be issued in favor of the Department and shall consist of one or more of the following mechanisms: surety bond, irrevocable letter of credit, insurance, trust fund, corporate financial test, or other evidence of financial responsibility assurance approved by the Commissioner.
- (3) The Commissioner shall use the financial assurance when necessary to pay for clean-up or corrective action. Any money remaining after completion of clean-up or corrective action shall be returned to the person who posted the financial assurance.
- (4) ~~The Commissioner may apply financial assurance to collect civil penalties and damages assessed by the Commissioner against the waste tire hauler in a final order issued pursuant to T.C.A. § 68-211-1104. However, the~~ Commissioner is not required to issue an order pursuant to T.C.A. § 68-211-1104 to use financial assurance as provided in paragraph (3) of this rule.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-1101 et seq.

0400-11-04-.07 Grounds for Revocation, Suspension, or Refusal to Issue or Renew Registration.

- (1) The Commissioner may revoke, suspend, or refuse to issue or renew registrations for one or more of the

following reasons:

- (a) Failure to abide by any term or condition of registration;
 - (b) Providing false, misleading, or deceptive information to the Commissioner concerning activities related to the registration;
 - (c) Engaging in any false, fraudulent, or dishonest practices in the course of hauling waste tires;
 - (d) Failure to comply with any request for information from the Commissioner for records related to this chapter;
 - (e) Failure to timely pay all registration fees or provide financial assurance required by this chapter;
 - (f) Conviction of, or entry of a plea of guilty to, any crime related to solid or hazardous waste, including but not limited to waste tires;
 - (g) Failure to allow the Commissioner to inspect the registrant's facilities at which waste tires are generated, transported, processed, stored, or disposed;
 - (h) Bankruptcy or insolvency proceedings involving the registrant, or the appointment of a receiver, trustee, or assignee for the benefit of creditors against the registrant; and
 - (i) Violation of any provision of Title 68, Chapter 211, Part 11, of these rules, or a final order issued by the Commissioner pursuant to T.C.A. § 68-211-1104.
- (2) Registration is deemed a license as defined in T.C.A. § 4-5-102. Suspension, revocation, or non-renewal of registration must be conducted in accordance with T.C.A. § 4-5-320. A person whose registration has been denied, suspended, or revoked may appeal that decision within 30 days after the decision is issued by filing a written petition with the commissioner setting forth the grounds and reasons for objection to the decision and requesting a hearing before the board. A contested case hearing for a petition filed under this paragraph must be conducted in accordance with T.C.A. § 68-211-113(b).
- (3) The revocation, suspension, or refusal to issue or non-renewal of a registration shall not cancel or otherwise relieve a registrant of any liabilities owed to the Department.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-1101 et seq.

New Rules

Chapter 0400-11-05 Waste Tire Disposal Site Cleanup Funds

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0400-11-05-.01 Purpose.

The purpose of this chapter is to establish the standards and procedures necessary for the administration of T.C.A. § 68-211-831.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-801 et seq.

0400-11-05-.02 Definitions.

The definitions found in T.C.A. § 68-211-1101 and Rules 0400-11-01-.01 and 0400-11-04-.02 shall apply when those terms are used in this chapter.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-801 et seq.

0400-11-05-.03 Administrative Requirements.

- (1) The Department may provide funds from the solid waste management fund, established by T.C.A. § 68-211-821, to local government entities:
 - (a) To provide for the investigation and cleanup of unpermitted waste tire disposal sites and other unpermitted solid waste disposal sites; and
 - (b) To issue grants to a private party, other than the person responsible for the illegal disposal of waste tires, for the purpose of investigation and cleanup of privately-owned, unpermitted, waste tire disposal sites.
- (2) A local government entity may apply to receive funds for activities identified in paragraph (1) of this rule by submitting an application developed by the Department that is completed in accordance with the instructions accompanying the form.
- (3) A complete application shall contain the following information:
 - (a) The name of the government entity;
 - (b) Current contact information for the ~~mayer~~ principal executive officer or ranking elected official and the local government official responsible for the budget and finances of the government entity;
 - (c) A detailed description of the waste tire disposal site investigation, cleanup project, grant, or other proposed use of funds ~~recieved~~ requested from the Department;
 - (d) An explanation of the local government entity's demonstrated need for the funds and why funds provided pursuant to T.C.A. § 67-4-1610 are insufficient to fund the planned investigation, cleanup project, or grant;
 - (e) A copy of the most recent annual progress report provided to the Department pursuant to § 68-211-814(a), if applicable; and

(f) A copy of the local government entity's most recent annual budget.

(4) The application must be signed by either a principal executive officer or ranking elected official.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-801 et seq.

0400-11-05-.04 Evaluation Criteria.

In determining whether to provide funds to a local government [entity](#) under this chapter, the Department may consider:

- (1) The local government's demonstrated need;
- (2) The local government's use of the funds received pursuant to T.C.A. § 67-4-1610(b)(1);
- (3) The availability of funds in the solid waste management fund after considering all other obligations of those funds; and
- (4) Whether the county requesting funds under this chapter is in compliance with the reporting requirements of T.C.A. § 67-4-1610(b)(1), as determined by the Commissioner.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-801 et seq.

0400-11-05-.05 Reports.

- (1) A local government entity shall submit a final report addressing the results at the completion of the investigation, cleanup project, or grant.
- (2) Interim reports shall be submitted as required by the Commissioner ~~in writing~~.
- (3) Interim and final reports shall provide a detailed description of actions taken with funds, [accounting of funds](#), and the current results of such actions.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-801 et seq.

0400-11-05-.06 Restrictions.

Money received by a local government in accordance with this chapter shall only be used for the purposes detailed in the application as approved by the Commissioner and shall not be used for any other purpose.

Authority: T.C.A. §§ 4-5-201 et seq., 68-211-101 et seq., and 68-211-801 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Daphne Berry (Petroleum Business with at least 15 Underground Storage Tanks)					
Stacey Cothran (Solid/Hazardous Waste Management Industry)					
Will Dean (Single Facility with less than 5 Underground Storage Tanks)					
Pat Flood, P.E. (Commissioner's Designee, Dept. of Environment and Conservation)					
Dr. Andrea Gardiner (Environmental Interests)					
Doug Giles, Jr. (Working in a field related to Agriculture)					
Dr. George Hyfantis, Jr. (Institution of Higher Learning)					
Jared L. Lynn (Manufacturing experienced with Solid/Hazardous Waste)					
Jeff McCormick (Municipal Government)					
William "Will" E. Ownby, Jr. (Manufacturing experienced with Underground Storage Tanks/Hazardous Materials)					
Steve Perry (Petroleum Management Business)					
The Honorable Bob Rial (County Government)					
Jimmy West (Commissioner's Designee, Dept. of Economic and Community Development)					
Mark Williams (Small Generator of Solid/Hazardous Materials representing Automotive Interests)					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Underground Storage Tanks and Solid Waste Disposal Control Board on 10/07/2026, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 05/07/2025

Rulemaking Hearing(s) Conducted on: (add more dates). 07/01/2025

Date: October 7, 2026

Signature: _____

Name of Officer: James S. Sanders

Title of Officer: Technical Secretary

Agency/Board/Commission: Underground Storage Tanks and Solid Waste Disposal Control Board

Rule Chapter Number(s): 0400-11-04 and 0400-11-05

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Jonathan Skrmetti
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

1. Comment: Part (2)(a)2 of Rule 0400-11-04-.01 excludes from regulation under Chapter 0400-11-04, persons who are not hauling waste tires commercially, including farmers hauling their own waste tires. A commenter recommended amending this part to add the underlined language:

Persons who are not hauling waste tires commercially, including farmers hauling their own tires, provided such persons transport no more than 10 tires per trip.

Response: T.C.A. § 68-211-1101 defines “waste tire hauler” to include a person engaged in the commercial transporting of waste tires and T.C.A. § 68-211-1102(a)(1) prohibits a person from commercially transporting waste tires without being registered with the Department. The statute does not require registration of a person who is hauling waste tires for non-commercial purposes regardless of the number of waste tires hauled. The Board cannot adopt a rule that conflicts with the statute. That said, the Board agrees that hauling more than 10 tires per trip may be an indication of commercial hauling subject to this rule.

2. Comment: A commenter was concerned that part (2)(b)3 of Rule 0400-11-04-.01 did not sufficiently make it clear that the hauling of off-specification tires from original equipment manufacturer's operations, that have never been on a vehicle or used on the road, were excluded from regulation under Chapter 0400-11-04. The commenter added that these tires are being transported as part of controlled, tracked supply chains to be installed on new vehicles and are not at risk of being illegally discarded. The commenter recommended revising the language as follows:

Tires that are not waste tires, as defined in Rule 0400-11-04-.02, such as new tires generated by a tire manufacturer, or off-specification tires generated in connection with both the tire manufacturing process and the motor vehicle original equipment manufacturing process.

Response: The tires described in this comment are not waste tires as defined by statute and this rule and are thus not subject to regulation under this chapter. The definition of “waste tire” in T.C.A. § 68-211-1101 and in paragraph (9) of Rule 0400-11-04-.02, excludes tires that have not been previously used in the regular operation of a motor vehicle. However, the Board has made the requested change for the sake of enhanced clarity.

3. Comment: A commenter is concerned that the definition of “waste tire receiver” is not specific enough to include all facilities that are authorized to manage waste tire in Tennessee or in other states.

Response: The Board agrees to revise the definition of “waste tire receiver” to only include facilities that are authorized by the Department and by other states to receive and manage waste tires.

4. Comment: A commenter was concerned that paragraph (3) of Rule 0400-11-04-.04 only allows registrants to deposit waste tires at permitted landfills, waste tire processing facilities, waste tire storage facilities, or at facilities authorized to manage waste tires in other states, which would prohibit county governments from accepting waste tires in accordance with T.C.A. § 68-211-867 and treating them as recovered materials.

Response: The Board agrees that local governments should not be prohibited from receiving manifested shipments of waste tires for their material recovery programs and is revising the definition of “waste tire receiver” in Rule 0400-11-04-.02 to identify all the facilities that are authorized to receive waste tires for management, which includes authorized local governments and revised paragraph (3) of Rule 0400-11-04-.04 to make it clear that registrants shall only deliver waste tires to “waste tire receivers.”

5. Comment: A commenter is concerned that the requirement in paragraph (5) of Rule 0400-11-04-.05 for the waste tire receiver to verify the manifest would prevent removing tires from the load as recovered materials.

Response: If a manifested load of waste tires is received by a waste tire receiver and tires are removed and

recovered for reuse and the remainder of the waste tires are to be shipped to another waste tire receiver; then at that time a new manifest would be created for the remainder of the waste tires for transportation to their ultimate processing or disposal destination.

6. Comment: A commenter suggested that paragraph (5) of Rule 0400-11-04-.05 be revised to require all the facilities authorized to receive waste tires to verify the accuracy of the information on the manifest.

Response: The Board agrees to revise the paragraph to use the term “waste tire receiver” to ensure that all facilities authorized to receive waste tires are required to verify the accuracy of the information on the manifest.

7. Comment: A commenter was concerned that paragraph (10) of Rule 0400-11-04-.05 requires the waste tire hauler to complete the information required on the manifest if an out of state entity fails to complete their portion of the manifest. Since the signature of the out of state waste tire generator or waste tire receivers is a part of those requirements, the comment is asking that the waste tire hauler not be required to sign for the out of state entity.

Response: The Board agrees to exclude the waste tire hauler from signing the manifest on behalf of an out of state entity that fails or refuses to sign the manifest but retains the requirements for the waste tire hauler to be responsible for remainder the required information.

8. Comment: A commenter strongly supported the financial assurance requirement of paragraph (1) of Rule 0400-11-04-.06, which will protect Tennessee taxpayers by ensuring that waste tire haulers are properly bonded and financially capable of fulfilling their obligations. This provision demonstrates sound oversight that balances taxpayer protection with responsible business operations. We encourage the agency to establish appropriate bonding amounts that reflect the scale of operations while maintaining accessibility for legitimate businesses.

Response: The Board agrees with the commenter.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of or directly benefit from the proposed rule.

These rules apply to any person who commercially generates, transports, processes, stores, recovers, or disposes of waste tires. These rules also affect local governments who seek funds for the investigation and cleanup of unpermitted waste tire sites.

The Board estimates that roughly 575 companies meeting the definition of small business, would be affected by the proposed rule. The majority of these small businesses are tire dealers.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

This rule implements Tennessee Code Annotated Title 68, Chapter 211, Part 11, so the rule itself imposes no additional cost. That said, this program established by statute and implemented through this rule requires commercial generators of waste tires to complete waste tire manifests, keep records of those manifests, and report to the Department if a completed manifest is not returned verifying that the waste tires were received by the designated waste tire receiver. For commercial waste tire generators, the labor cost is estimated to range from \$300 to \$400 per year. For commercial waste tire haulers, the cost of managing the waste tire manifest, recordkeeping, obtaining financial assurance, including applying for registration and paying the \$100 registration fee, is estimated to range from \$900 to \$1,500 per year. The waste tire receivers, the labor cost of managing the waste tire manifests and recordkeeping could range from \$300 to \$400 per year.

The above costs are assuming small businesses having to maintain hard copies of shipping manifests and associated annual registration paperwork. These businesses may manage their files electronically, which may reduce the above costs.

- (3) A statement of the probable effect on impacted small businesses and consumers.

This rule implements Tennessee Code Annotated Title 68, Chapter 211, Part 11, so the rule itself has negligible impact on small businesses and consumers. That said, the new waste tire program will impose new accountability requirements on waste tire generators, haulers, and recipients. These minimal restrictions are not likely to affect consumers.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The Board believes these rules are the least burdensome, intrusive, and costly method for achieving the purpose of Tennessee Code Annotated Title 68, Chapter 211, Part 11 for accounting for waste tires commercially generated and managed in Tennessee.

- (5) A comparison of the proposed rule with any federal or state counterparts.

These rules are similar to rules in surrounding states and standards accepted in the industry. The Board does not anticipate these rules having a negative impact on attracting economic activity to Tennessee or to push economic activity to another state.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

An exemption of small businesses from the requirements of these rules is not supported by T.C.A. Title 68, Chapter 211, Part 11.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, “On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues.”

The Board believes there will be a small increase in expenditures on local governments choosing to receive waste tires for management.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

New Chapter 0400-11-04 establishes a waste tire hauler registration program to track and regulate the transportation of waste tires from the point of generation until delivery for permitted storage, processing, or disposal. The rules provide:

- Administrative requirements for registration;
- Decal requirements for all transport vehicles used to commercially haul waste tires;
- An annual registration fee for all registered waste tire hauler vehicles;
- Terms and conditions for registered waste tire haulers;
- Manifest requirements for all waste tire generators, transporters, and permitted waste tire management facilities; and
- Financial assurance requirements for registered waste tire haulers.

New Chapter 0400-11-05 establishes standards and procedures for the administration of funds to local governments for the investigation and cleanup of unpermitted waste tire disposal sites and other unpermitted solid waste disposal sites in accordance with Tennessee Code Annotated section 68-211-831.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 68-211-1102(b) provides that “[t]he department shall administer a waste tire hauler registration program in accordance with rules promulgated by the board.” T.C.A. § 68-211-1105 provides that “[t]he board shall promulgate rules to implement this part.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This rule affects commercial generators, transporters, and receivers of waste tires for the purpose of storage, processing, recovery, or disposal. The rule also affects local governments who seek funds for the investigation and cleanup of unpermitted waste tire sites.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Board is not aware of any opinions of the attorney general and reporter or any judicial ruling that directly relates to this rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The rule will raise an estimated \$7,200 annually through a \$100 annual registration fee.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Jeremy Hooper
Davy Crockett Tower, Floor 7
500 James Robertson Parkway
Nashville, TN 37243
Jeremy.Hooper@tn.gov
615-686-7847

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alli F. Williamson
Legislative Director

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Commissioner's Office
Davy Crockett Tower, Floor 5
500 James Robertson Parkway
Nashville, Tennessee 37243
(615) 253-5339
Alli.F.Williamson@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

- (1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.
- New Chapter 0400-11-04 establishes a waste tire hauler registration program to track and regulate the transportation of waste tires from the point of generation until delivery for permitted storage, processing, or disposal. The rules provide:
- Administrative requirements for registration;
 - Decal requirements for all transport vehicles used to commercially haul waste tires;
 - An annual registration fee for all registered waste tire hauler vehicles;
 - Terms and conditions for registered waste tire haulers;
 - Manifest requirements for all waste tire generators, transporters, and permitted waste tire management facilities; and
 - Financial assurance requirements for registered waste tire haulers.
- New Chapter 0400-11-05 establishes standards and procedures for the administration of funds to local governments for the investigation and cleanup of unpermitted waste tire disposal sites and other unpermitted solid waste disposal sites in accordance with Tennessee Code Annotated section 68-211-831.
- (2) A determination that the action is the least cost method for achieving the stated purpose.
- The Board believes these rules are the least costly method for achieving the purpose and objectives T.C.A. Title 68, Chapter 211, Part 11 for accounting for waste tires commercially generated and managed in Tennessee.
- (3) A comparison of the cost-benefit relation of the action to nonaction.
- The Tennessee Advisory Commission on Intergovernmental Relations report concluded illegal dumping of waste tires is a widespread problem across the state and that existing waste tire programs do not adequately address current illegal dumping issues. Nonaction would allow this inadequacy to continue. These rules will directly reduce illegal dumping of waste tires in Tennessee.
- (4) A determination that the action represents the most efficient allocation of public and private resources.
- The Board has determined that these rules are the most efficient allocation of public and private resources. Accounting for waste tires from the point of generation to authorized facilities for proper management through the use of a waste tire hauler registration program and requiring a waste tire manifest for tracking will be much less costly and more protective of public health and the environment than the cost of cleaning of illegal tire dumps.
- (5) A determination of the effect of the action on competition.

This rule will have a positive effect on legitimate competition in the marketplace by making it harder for individuals to undercut the market by illegally disposing of waste tires.

- (6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.

The Board does not believe these rules will have an effect on the cost of living in any geographical area.

- (7) A determination of the effect of the action on employment in the geographical area in which the action would occur.

The Board does not believe these rules will have an effect on employment in any geographical area.

- (8) The source of revenue to be used for the action.

Funding for the program is allocated from revenue generated from existing tire pre-disposal fees.

- (9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

There is a small economic impact on commercial waste tire generators, commercial waste tire haulers, and waste tire receivers. Except for the added costs for commercial waste tire haulers paying an annual fee for registration and maintaining financial assurance, the cost of completing and managing the manifest is minimal. The majority of the revenue for administering this program is coming from the existing tire pre-disposal fee.