



## Department of Natural Resources

### Five-Year Rule Review Worksheet

#### Phase 2 - Part C

#### BASIC INFORMATION

Date Part C Review Concluded: December 1, 2014

Reviewer Name(s): Chad Stobbe, Susan Johnson, Theresa Stiner, Amie Davidson

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Chapter<sup>1</sup> Number: Chapter 116

Chapter Name: Registration of Waste Tire Haulers

#### 1. DOES THIS CHAPTER<sup>2</sup> DO THE JOB IT SETS OUT TO DO?

1a. Is this chapter effective at protecting the health, welfare, and safety of Iowans and our natural resources?

Yes  No  (check or circle)

1b. Explain how the chapter protects the health, welfare, and safety of Iowans and our natural resources.

The intent of this administrative chapter was to establish guidelines for the registration of waste tire haulers that provide waste tire collection and hauling services, to ensure it's done in a manner that is protective of human health and the environment. Improper management of waste tires may lead to future problems such as the burning of tires, risk of disease from discarded tires creating a breeding ground for disease carrying mosquitoes and rodents, and a blight on the landscape that may attract further dumping of other solid waste.

<sup>1</sup> If the Phase 1 Worksheet addresses a portion of a chapter, rather than a whole chapter, then this follow-up worksheet should address the same portion of the chapter (e.g. rule or rules, paragraph, etc.).

<sup>2</sup> Throughout this worksheet, the word "chapter" is meant to apply to the chapter or portion of a chapter to which the worksheet applies.

## 2. IS THERE LEGAL AUTHORITY FOR THIS CHAPTER?

2a. Is the chapter intended to implement any **state statutes**?

Yes  No  (check or circle)

*If this chapter is intended to implement any state statutes, then answer questions 2b and 2c. If not, then proceed to question 2d.*

2b. Provide citations for the specific provisions of the Iowa Code implemented by this chapter.

At the conclusion of this administrative chapter there is a chapter implementation sentence that states, "These rules are intended to implement Iowa Code sections 455B.301 to 455B.307 and 455D.11I."

[Iowa Code section 455D.11](#) – 455D.11(3)"d" and 455D.11(7)

[Iowa Code section 455D.11I](#)

2c. Provide a narrative summary of how the state statutes are implemented by this chapter.

Iowa Code section 455D.11I states that the DNR shall adopt rules necessary for the implementation and administration of a waste tire hauler registration program. Given the provisions of 567 IAC 116 are directly supported from this statutory section, there are few requirements that are not explicitly required by statute. The noted provisions of Iowa Code section 455D.11I provide further clarification regarding when a registered waste tire hauler must be used and where the collected waste tires may be disposed of in the State.

2d. Does the chapter implement any **federal statutes or regulations**?

Yes  No  (check or circle)

*If this chapter is intended to implement any federal statutes or regulations, then answer questions 2e and 2f. If not, then proceed to question 3.*

2e. Provide citations for the specific provisions of federal statutes and regulations implemented by this chapter.

Not Applicable

2f. Provide a summary of how federal statutes and regulations are implemented by this chapter.

Not Applicable

### 3. DOES THE CHAPTER GO BEYOND FEDERAL LEGAL REQUIREMENTS?

3a. Is this chapter more stringent than federal statutory or regulatory requirements?

Yes  No  Not Applicable  (check or circle)

*If the answer is "yes," then answer question 3b. If not, then proceed to question 4.*

3b. Provide a narrative statement regarding how this chapter is more stringent than required by federal statutes and regulations, and a short justification of why it is more stringent.

Not Applicable

### 4. DOES THIS CHAPTER HAVE UNINTENDED CONSEQUENCES?

4a. Does the chapter result in the equitable treatment of those required to comply with it?

Yes  No  (check or circle)

4b. Provide a narrative summary of your response.

For any public or private entity deemed to require a registration for their waste tire hauling activities, the provisions of this administrative chapter are applied equally to all.

4c. Does the chapter result in the inequitable treatment of anyone affected by the chapter but not required to comply with it?

Yes  No  (check or circle)

4d. Provide a narrative summary of your response.

None Known.

4e. Are there known negative unintended consequences of this chapter?

Yes  No  (check or circle)

*If the answer is "yes," then answer question 4f. If not, then proceed to question 5.*

4f. Specifically state the nature of any negative unintended consequences.

Iowa Code section 455D.11I(6) states that a waste tire hauler must obtain a \$10,000 surety bond as financial assurance. Statutorily limiting the financial assurance mechanism to only the surety bond and dictating the amount, has likely kept some prospective registrants from getting into the waste tire hauling business. Multiple financial assurance instruments are available to sanitary disposal projects pursuant to Iowa Code section 455B.301, and comparable financial assurance instrument options could be made available to entities wanting to haul waste tires. Also, setting the amount of financial assurance needed to obtain a waste tire hauler registration at \$10,000 is an obstacle to some entities in getting registered. Perhaps a re-evaluation of anticipated clean-up costs is needed to determine if this amount remains appropriate.

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However, given this amount is expressed within Iowa Code, it would require a legislative change to be revised.

## 5. CAN THE GOALS OF THE CHAPTER BE ACHIEVED IN A MORE EFFICIENT OR STREAMLINED MANNER?

5a. Is the chapter broader than necessary to accomplish its purpose or objective?

Yes  No  (check or circle)

5b. Provide a narrative summary of your response.

This administrative chapter is brief and fairly succinct. The revisions being suggested below pertain to opportunities to streamline requirements and to provide improved regulatory clarity.

5c. Is the purpose of this chapter achieved in the least restrictive manner?

Yes  No  (check or circle)

5d. Provide a narrative summary of your response.

The layout of this administrative chapter is clear and concise, and there are few instances where rule requirements are overly prescriptive. As stated prior, most of the requirements expressed within this administrative chapter are either verbatim from statute or closely parallel those statutory requirements. While there are opportunities to streamline and perhaps clarify requirements within the chapter (e.g. online registration and reporting), the fundamental approach to achieving the statutory mandate is straightforward.

5e. What, if any, reasonable and practical alternatives to this chapter are available by the agency?

While the DNR has identified some opportunities to streamline and clarify the waste tire hauler registration process (see response to question 10b below), the fundamental approach parallels statute and is not perceived to be overly burdensome.

5f. How do the economic and social costs of various alternatives to this chapter, if known, appear to compare to the known economic costs of this chapter?

The suggested revisions do not substantially alter how the program is administered or what statutory requirements apply, but rather look to simplify the renewal and reporting process. While these revisions may result in some cost savings to registrants and the DNR, they are limited by current statutory authorities.

5g. Do the known economic costs of the chapter outweigh the known economic and social benefits?

The costs of this administrative chapter do not outweigh the benefits. Because there is a land disposal ban on whole waste tires, an orderly means of addressing this waste stream must be provided. The registration of waste tire haulers provides a means for limited regulatory oversight to ensure the proper management of waste tires. This administrative chapter has

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been implemented for more than a decade without major modification, and with few concerns raised by those whom it regulates. The provisions of this administrative chapter have undoubtedly minimized the environmental and human health impacts of further illegal disposal and stockpiling of waste tires in Iowa.

While Iowa Code section 455D.11(5) provides the DNR with the authority to establish a registration fee that is sufficient to offset expenses incurred in the administration of this program, the \$50 annual registration renewal fee fails to cover the DNR expenses in administering this program. This annual registration renewal fee is to cover expenses related to staff time in tracking and issuing registrations, ongoing technical assistance to registrants and the public, and field office time in conducting site inspections and enforcement follow-up. As part of this administrative rule review process, a more in-depth analysis of the costs incurred by the DNR in administering this program will need to be conducted to determine a more accurate (i.e. budget neutral) fee.

## 6. DOES THE CHAPTER AFFECT BUSINESS OR INDUSTRY?

6a. Does the chapter affect businesses operating in Iowa?

Yes  No  (check or circle)

*If the answer is "yes," then answer questions 6b through 6i as applicable. If not, then proceed to question 6f.*

6b. What kinds of businesses are affected by this chapter?

Any public or private agency hauling for hire more than 40 waste tires in a single load shall comply with this administrative chapter. These requirements also touch upon tire retailers/service shops, salvage yards and tire manufacturers.

6c. Does this chapter create a burden for businesses?

Yes  No  (check or circle)

6d. Explain your response to question 6c.

While some burden is always placed upon an applicant/registrant to obtain the proper authorization, this program provides businesses and the public with the assurance that their waste tires are being properly managed and that the registered haulers will be held liable for any mismanagement. While there are some revisions that have been suggested that will streamline and clarify the registration process, the current rule requirements do not appear to place any unnecessary burdens upon entities wanting to haul waste tires. Two areas that warrant further discussion is with regard to financial assurance and the amounts and instruments needed to meet this statutory requirement, and intermediate storage restrictions.

*If the answer to question 6c is "yes," then answer question 6e. If not, then proceed to questions*

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*6f through 6i.*

6e. If this rule does create a burden for businesses, what options are available to address those burdens?

Not Applicable

6f. Do industry standards affect the subject matter of this chapter?

Yes  No  (check or circle)

*If the answer is "yes," answer questions 6g through 6i as applicable. If not, proceed to question 7.*

6g. Have industry standards changed since the adoption of this chapter?

Yes  No  (check or circle)

*If the answer is "yes," answer questions 6h and 6i. If not, proceed to question 7.*

6h. What industry standards have changed since the adoption of this chapter?

Not Applicable

6i. Would revision of the chapter be useful in implementing the purposes of the chapter in light of any industry standard revisions? (Cite the portions of the chapter that could be revised.)

Not Applicable

## 7. DOES THIS CHAPTER AFFECT JOB CREATION?

7a. Does the chapter affect job creation?

Yes  No  (check or circle)

*If the answer is "yes," then answer questions 7b and 7c. If not, then proceed to question 8.*

7b. If this chapter affects job creation, in what manner does that occur?

Not Applicable

7c. If this chapter is required by state or federal statutes, or federal regulations, how has the department minimized negative job impacts?

Not Applicable

## 8. IS THERE ANY DOCUMENTATION OR PAPERWORK REQUIRED BY THIS CHAPTER?

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8a. Is there any documentation or paperwork required by this chapter?

Yes  No  (check or circle)

*If documentation or paperwork is required, then answer questions 8b through 8e. If not, then proceed to question 9.*

8b. What is the purpose of the documentation or paperwork?

The rules within this administrative chapter that require the submittal of paperwork pertain to minimum registration and reporting requirements. This required documentation ensures waste tires are being collected, transported, and managed by a legitimate waste tire management facility. The ongoing reporting of waste tires collected by the hauler allows the DNR to follow up with their end user to confirm that waste tires are indeed being delivered and not stockpiled by the hauler.

8c. Who reviews the paperwork required by the chapter?

The waste tire hauler registrations, surety bonds and semiannual reports are reviewed by DNR central office program staff and field office staff, and serve as the basis for hauler registration issuance, documentation of compliance with operating requirements, and proof of financial assurance coverage.

8d. How is the documentation or paperwork required by this chapter informative or useful for the public?

Because all paperwork is made public, it provides transparency and a level playing field for all required to comply with this administrative chapter. The minimum registration and reporting requirements serve as the basis to approve an entity's registration request, and provides the public with information on who, what and how the waste tires are being managed. These requirements are vital to the registration process to ensure waste tire management activities are adequately protective of human health and the environment.

8e. How, if possible, can the documentation or paperwork requirements be reduced?

As stated prior, while there are opportunities to streamline the registration and reporting process, the current paperwork requirements are minimal. The revisions being considered would be to make the registration and reporting process more efficient by allowing for internet based submittals, online registration fee payments, and further evaluation regarding lessening the frequency of registration submittal.

## 9. DO OTHER STATE AGENCIES REGULATE THE ISSUES ADDRESSED BY THIS CHAPTER?

9a. Do any other state agencies regulate any issue(s) addressed by this chapter?

Yes  No  (check or circle)

*If the answer is "yes," then answer questions 9b to 9e. If not, then proceed to question 10.*

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9b. If other state agencies regulate any issue(s) addressed by this chapter, provide the name of each agency, a description of how each agency is involved, and specify the subject matter regulated by each agency.)

Not Applicable

9c. Is there a need for more than one set of rules?

Yes  No  (check or circle)

*If the answer is "yes," then proceed to question 9d. If not, then proceed to question 9e.*

9d. If any other state agencies regulate any issue(s) addressed by this chapter and one or more of the other sets of rules are necessary, explain why.

Not Applicable

9e. If this chapter or a portion thereof is duplicative, explain how and why.

Not Applicable

## 10. IS THE CHAPTER USER FRIENDLY?

10a. Is the chapter written and organized in a clear and concise manner so that those to whom it applies can readily understand it?

Yes  No  (check or circle)

*If the answer is "no," then answer question 10b. If not, then proceed to question 11.*

10b. If not, explain what changes can be made to improve readability, eliminate ambiguity, or increase understanding. Be specific, to the extent possible.

As stated above, the layout of this administrative chapter is clear and concise and there are few instances of where rule requirements are overly prescriptive. Most of the requirements expressed within this administrative chapter are either directly verbatim from statute or closely parallel those statutory provisions. While there are opportunities to streamline and perhaps clarify some requirements, the fundamental approach to achieving statutory mandates is straightforward. Some suggested amendments include:

- The definitions for permit, tire collector, tire processor, waste tire, and waste tire hauler are different than the same definitions in Iowa Code section 455D.11. Iowa Code contains a definition for a "Waste tire collection site" that appears to have been incorporated in 567 IAC 116 as "Waste tire stockpile." For consistency, those definitions in Iowa Code should be incorporated verbatim into this administrative chapter.
- It's unclear whether the DNR has the authority to provide an exemption from this

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administrative chapter to municipal, county, state or other public agencies hauling less than 10,000 waste tires in a year (567 IAC 116.3(1)). Furthermore, it's unclear what the basis was for the quantity limitation to meet this exemption. This issue should be revisited as the DNR has no way of knowing who is operating under this exemption, as there is no notification or reporting requirement to document compliance.

- Further clarification is needed in regard to how the DNR defines "vehicle." The registration requirements in 567 IAC 116.4 refer specifically to motor vehicle, however, the marking requirements of 567 IAC 116.7 indicate information should be "displayed on each side of equipment used for the hauling of waste tires." In addition, the Vehicle Marking Reference Chart states, "If the semi-trailer is left at the customer's site of waste tire generation for filling and exchange, then the trailer MUST be marked as shown." It's unclear whether trailers at many sanitary disposal projects have been included in prior application submittals, and therefore may not have the required waste tire hauling placarding affixed. Iowa Code section 455D.11(3) states "A certificate of registration shall at all times be carried and displayed in the vehicle used for transportation of waste tires and shall be shown to a representative of the department of natural resources or the state department of transportation, upon request. The state department of transportation may inspect vehicles used for the transportation of waste tires and request that the certificate of registration of the waste tire hauler be shown." Perhaps in 567 IAC 116.4, amend "motor vehicle" to "container" for the purpose of clarifying that all containers holding tires shall be marked properly.
- 567 IAC 116.8(2) states in part that waste tire haulers "...may not establish or operate any intermediate storage..." unless a permit has been issued in accordance with 567 IAC 117. However, 567 IAC 117.4(1) indicates quantity limits and operational requirements for which a waste tire stockpile permit would not be needed. These two provisions contradict one another, which has been raised by several rural entities that are looking to accumulate enough waste tires from their operations to make delivery to a final disposal destination cost effective. So long as they comply with 567 IAC 117.4, intermediate storage and storage beyond 72 hours of initial pick up seems authorized. Iowa Code section 455D.11(7)(b) states, "That a person who transports waste tires for final disposal is required to only dispose of the tires at a permitted sanitary disposal facility." This provision does not seem to prohibit any intermediate storage so long as the final disposal is at a permitted facility.
- 567 IAC 116.8(2)"b" seems to contradict 567 IAC 116.8(2)"a" and "c" in that waste tires collected cannot be directly transported to an approved site and also be allowed to be stored for up to 72 hours. Iowa Code section 455D.11(7)(b) states, "That a person who transports waste tires for final disposal is required to only dispose of the tires at a permitted sanitary disposal facility." There is no Iowa Code prohibition regarding the temporary storage of waste tires by a registered hauler prior to final disposal/recycling.

Prohibiting intermediate storage of waste tires by a registered waste tire hauler in 567 IAC 116.8(2)“c” is an issue in rural areas because it forces smaller loads of tires to be transported more often.

- While Iowa Code section 455D.11(5) states that the DNR “shall develop criteria for the issuance of permits and shall issue permits to qualified stockpiling facilities,” perhaps the DNR should re-evaluate whether it should be authorizing this activity, as these approved stockpile sites became some of the most expensive clean ups as part of the waste tire abatement fund. The stockpiling of waste tires in anticipation of some future waste tire market creates the potential for illegal disposal and expensive site remediation costs if the entity decides to walk away.
- It may be more streamlined to reference an application form by number in administrative rule, rather than listing out all the requirements that are a part of the application process. Having a dedicated registration form, which is currently being used, in addition to expressing each requirement in 567 IAC 116.4, seems duplicative. If minor revisions are needed to the registration requirements, those changes could be made to the referenced form, rather than having to undertake a formal rulemaking.
- The allowance in 567 IAC 116.3(2)“b” for two separate deadlines for registration renewal provides no additional efficiency or programmatic benefit, but rather adds a level of complexity that’s unwarranted. A singular renewal deadline for all entities could streamline the process. Given the surety bonds are continuous in nature, this change in renewal timeframe should have a minimal impact on registered waste tire haulers.
- There is an inconsistency between the tire processing requirements of 567 IAC 116 and 567 IAC 117. Specifically, 567 IAC 117.6(1)“b” states that a processing permit is required to cut, grind, or compact waste tires for final disposal at a permitted sanitary disposal project. However, the definitions of “processing” and “tire processor” in both 567 IAC 116 and 117 state that the resulting material is to be readily suitable for marketing into product manufacturing, energy recovery, or other beneficial reuse markets. Those facilities that process waste tires for final disposal are not “processing” by definition, and should likely not receive a waste tire processing permit for their activities.

## 11. ARE THE CITATIONS IN THE CHAPTER ACCURATE?

11a. If this chapter contains Iowa Code citations, are those citations proper and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is “no,” then answer question 11b. If not, then proceed to question 11c.*

11b. If not, list and explain the corrections that need to be made to the Iowa Code citations.

At the conclusion of this administrative chapter, there is a chapter implementation sentence that states, "These rules are intended to implement Iowa Code sections 455B.301 to 455B.307 and 455D.111." Because the statutory authority for all waste tire provisions (i.e. hauling, processing, beneficial use) are outside of Iowa Code Chapter 455B, Division IV "Solid Waste Disposal," Part 1 "Solid Waste," it's unclear whether reference to Iowa Code sections 455B.301 to 455B.307 are appropriate. It's understood that these citations were included to provide enforcement authority regarding the illegal disposal of waste tires, which was not expressed within Iowa Code section 455D.11. It may be more appropriate to list the statutory authority as Iowa Code section 455D.11.

11c. If this chapter contains federal statutory citations, are those citations proper and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11d. If not, then proceed to question 11e.*

11d. If not, list and explain the corrections that need to be made to the federal statutory citations.

Not Applicable

11e. If this chapter contains federal regulatory citations, are those citations proper and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11f. If not, then proceed to question 11g.*

11f. If not, list and explain the corrections that need to be made to the federal regulatory citations.

Not Applicable

11g. If this chapter contains internal cross-reference citations, are those citations correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11h. If not, then proceed to question 11i.*

11h. If not, list and explain the corrections that need to be made to the internal cross-references.

Not Applicable.

11i. If the chapter contains cross-reference citations to other chapters, are those citations correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11j. If not, then proceed to question 11k.*

11j. If not, list and explain the corrections that need to be made to the cross-references to

other chapters or outside sources.

Not Applicable

11k. If this chapter contains website references, are those website references necessary, correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11l. If not, then proceed to question 11m.*

11l. List and explain any necessary corrections to the website references.

Not Applicable

11m. If the chapter contains addresses and phone numbers, are the addresses and phone numbers necessary, correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11n. If not, then proceed to question 11o.*

11n. List and explain any corrections that need to be made to the addresses and phone numbers contained in the chapter.

Not Applicable

11o. If the chapter contains adoptions by reference, are those adoptions by reference correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11p. If not, then proceed to question 11q.*

11p. List and explain any corrections that need to be made to update adoptions by reference.

Not Applicable

11q. If the chapter contains DNR-created documents adopted by references, are those document references necessary, correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11r. If not, then proceed to question 12.*

11r. List and explain any corrections that need to be made to update the DNR-created document references.

Not Applicable

## 12. WHAT PUBLIC GROUPS ARE AFFECTED BY THE CHAPTER?

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12a. List any stakeholder groups, workgroups, public groups or other public participants impacted by the issues in the chapter.

Potential interested parties: Currently registered waste tire haulers, DNR/DEQ in bordering states because of transportation of waste tires across state lines, Iowa Society of Solid Waste Operations (ISOSWO), Association of Business and Industry (ABI), Farm Bureau, Iowa Department of Transportation (IDOT), Iowa Solid Waste Comprehensive Planning Areas, Iowa Environmental Council (IEC), Iowa Recycling Association (IRA), Sierra Club – Iowa Chapter, Liberty Tire, LLC., Clayton County Recycling, Iowa Tire Dealers Association (ITD), County Environmental Health Sanitarians.

12b. If any stakeholders have already been included in a review process for this chapter during the past five years, state the names of those stakeholder groups, workgroups, public groups, or other public participants, and explain the nature of their involvement.

External stakeholder feedback has not been sought in the past five years regarding revisions to this administrative chapter.