

**Responses to Comments Received During the Public Comment Period
April 17, 2015-May 15, 2015
Proposed Amendments to Rules for Solid Waste Management, Chapter 391-3-4**

On April 17, 2015, EPD issued a public notice requesting comments on proposed revisions to the Georgia Rules for Solid Waste Management, Chapter 391-3-4. A public hearing was held at 10:00 a.m. on May 12, 2015, in the DNR Tradeport Training Room, located at 4244 International Parkway, Suite 116, Atlanta, Georgia 30354. No oral comments were received during the public hearing. Written comments received as of May 15, 2015 are summarized in this memo; EPD's response follows each comment.

Written comments were submitted by eight organizations, including industry representatives, a local government and a business owner.

**Summary of Comments Received During the Public Comment Period
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Comment	EPD Response
1. Exempt companies regulated by the Public Service Commission (PSC) when they transport their own tires to another company-owned facility from needing a tire carrier permit.	Subparagraph (5)(i)4 of the Rule states, "A company transporting the company's own tires to a scrap tire processor or end user or for proper disposal," is not required to have a tire carrier permit. Companies regulated by the PSC would be included in this exemption.
2. The proposed Rule revision adds definitions, clarifies permit requirements, amends language to reflect statutory changes, updates requirements to reflect changes in the industry, and adds a section for used tire management. Our organization supports these amendments.	EPD acknowledges the comment and appreciates the support provided by the commenter.
3. The commenter suggested that EPD adjust time frame from 30 days to 120 days for a tire carrier to return a completed manifest to the generator.	The 30-day time period is in the current rule. The amendments do not propose to alter this time period because 30 days is necessary for EPD to promptly and effectively address failures regarding the delivery of manifest documents and helps prevent potential illegal tire dumps.
4. The commenter suggested that EPD adjust time frame from 15 days to 30-60 days for a generator to notify EPD if they have not received a completed manifest from a tire carrier.	Given there is only one point of final disposition, the 15-day time period is sufficient to notify EPD and allows EPD adequate time to resolve failures regarding the delivery of manifest documents.
5. Modify the definition of "Point of Final Disposition" to include scrap tire sorters.	Historically, EPD has considered approved scrap tire sorters to be a point of final disposition. EPD has proposed new language to clarify the definition of Point of

	Final Disposition to include “scrap tire sorters.”
6. Clarify generator status such that the original generator sending scrap tires to the retreader would not be responsible for providing final disposition twice; the retreader should be responsible for manifesting as a new generator.	The proposed rule does not anticipate multiple points of disposition. There are no approved intermediate points, only the point of generation to the point of final disposition. To clarify this, EPD has removed the reference to intermediate points contained in Subparagraph (4)(c)5. That subparagraph now reads, “scrap tire generators shall initiate a tire manifest to track scrap tires during transportation from the point of generation to an approved point of final disposition.” By definition, the “point of final disposition,” is a “location approved by the Division to receive scrap tires, including but not limited to, scrap tire processors, scrap tire sorters, and end users.”
7. Include a list of preapproved beneficial reuse categories to avoid unnecessary delays and expenditure of resources by all parties.	Beneficial reuse projects encompass a wide range of topics and applications and EPD receives an average of two such proposals per year. Approval or recommendation for revision usually takes 30 days or less. EPD is willing to meet with interested stakeholders if additional guidance is needed.
8. Change the word “prevents” in section (6)(c)1 to “controls,” which would be consistent with the language in section (6)(c)4.	EPD has proposed new language in the rule to address this comment. The new language will read “control” in Subparagraph (6)(c)1.
9. Entities operating out of state may play a role in the manifesting process. Given that there could be out of state entities involved along with the volume of commerce that occurs across state lines, there is an inherent flaw in the control that EPD appears to be attempting to obtain through the manifesting process.	The comment suggests some confusion about the purpose and scope of the rule. EPD has an interest in regulating carrying, sorting, and processing tires within the state. The comment implies that EPD is attempting to track all tires that enter or exit the state from cradle to grave. That is not the case. Scrap tire generators that generate scrap tires out of state do not need a generator identification number. See subparagraph (4)(b)3. However, once the tires enter Georgia, EPD has an interest in knowing where the tires are carried and disposed and the manifesting process aids in that goal.
10. No implementation timeline has been included in the proposed amendments for existing businesses or used tire dealers.	Some provisions of the proposed rule amendments were effective when 2013 statutory changes to the O.C. G.A §12-8-20, <i>et seq.</i> , became effective. The proposed rule changes become effective after adoption by the Department of Natural

	Resources Board, and 20 days after filing with the Secretary of State's Office. EPD will work with the regulated community to provide guidance as the new regulation takes effect, including providing information and other materials on the website.
11. EPD has not adequately notified the regulated community as to its intentions to amend these rules.	The development of the rule included significant involvement of the regulated community, beginning with a stakeholder meeting that included representatives from the regulated community was held on July 10, 2014 to gather input on the rule. A draft of the rule, with stakeholder comments incorporated, was posted on EPD's website September 8, 2014 to solicit feedback. Consistent with the Administrative Procedure Act, EPD issued notice of the proposed amendments and solicited additional public comment on April 17, 2015 and the public hearing was held May 12, 2015. As the Rules are implemented, EPD will continue outreach to the regulated community to inform them of the changes.
12. Financial assurance only references tire carriers and processors. Financial assurance needs to apply to used tire dealers given the marginal economic viability of these businesses.	The requirements for financial assurance in the proposed Amendments are identical to those mandated by the 2013 statutory amendments to the Comprehensive Solid Waste Management Act (O.C.G.A §12-8-20, <i>et seq.</i>) of 1990.
13. Scrap tire definition should include tires that are no longer desired by a consumer no matter their condition.	The definition of "scrap tire" is consistent with the definition contained in O.C.G.A § 12-8-22, which states, "A tire that is no longer suitable for its original intended purpose because of wear, damage, or defect." That definition was unchanged by HB 226 and is not proposed for amendment in this rulemaking.
14. Scrap tire processing limits the definition to beneficial use. Need to clarify if non-beneficial use processing will be regulated.	The proposed rule amendments define the process for scrapping tires. If the tires are processed for "non-beneficial" use, the resulting "waste" will be regulated by other solid waste handling rules.
15. Clarify if a manifest will track tires through multiple stops or single location and if the generator delivers its tires to a solid waste disposal facility, will the generator's manifest follow the tires to the final point of disposition (processor) or just to the disposal facility.	The proposed rule does not anticipate multiple points of disposition. There are no approved intermediate points, only the point of generation to the point of final disposition. To clarify this, EPD has removed the reference to intermediate points contained in Subparagraph (4)(c)5 . That subparagraph now reads, "scrap tire generators shall

	initiate a tire manifest to track scrap tires during transportation from the point of generation to an approved point of final disposition." By definition, the "point of final disposition," is a "location approved by the Division to receive scrap tires, including but not limited to, scrap tire processors, scrap tire sorters, and end users."
16. Clarify necessity of a definition for used tire dealer given that used tire dealers are a subset of tire retailers.	EPD has proposed new language to clarify that used tire dealers are a subset of tire retailers. The new definition of "used tire dealer" reads "a tire retailer that is selling used tires as defined by this Rule."
17. The current list of definitions does not include a definition for Georgia "tire distributors" and does not require tire distributors to remit fees and quarterly reports..	The rules are consistent with the statutory requirement contained in the Comprehensive Solid Waste Management Code (O.C.G.A. §12-8-40.1(h)) that requires that only tire retail dealers collect and remit the fee to EPD unless the dealer does not have a valid generator identification number, in which case the tire distributor is required to collect and remit the fee to EPD.
18. Exempt permitted solid waste handling facilities as long as scrap tire management is included in their solid waste handling permit and clarify if the exemption is for tires incidental to the load and not a full load of tires.	If a solid waste handling facility is removing tires from the working face or diverting them to a storage area as part of their solid waste handling permit, they are considered to be generators and must receive an identification number. There is no provision O.C.G.A. §12-8-20, <i>et seq.</i> for exemption of persons who are scrap tire generators, the only exemption is for permitted municipal solid waste whose primary business is the collection of municipal solid waste. See Subparagraph (4)(b)3.
19. A private individual transporting no more than 10 of the individuals own.... Conflicts with O.C.G.A. 12-8-40.1 (b)(3) that limits transportation to fewer than five scrap tires.	The provision the commenter references provides an exemption to a tire carrier permit to "a private individual transporting no more than 10 of the individual's own tires" 391-3-4-.19(5)(i)3. This is consistent with the changes to the Comprehensive Solid Waste Management Act (O.C.G.A. § 12-8-40.1(d)(2)). The proposed rule amendment does not conflict with O.C.G.A. §12-8-40.1(b)(3) as that provision limits the number of tires a private individual may take to a landfill.
20. The section for scrap tire generators should clarify that the tire's designation can only be changed by the generator.	The scrap tire generator begins the manifest process at the point of generation. However, a sorter or a processor may also make a determination about a scrap tire's

	<p>designation. For example, a generator sends tires to a retreader and the retreader determines the tire is unable to be retreaded and therefore must be sent to a tire processor. There are scenarios where a point of final disposition (i.e., a processor or sorter) may make a determination about the tire's designation and thus in effect become a generator as well.</p>
<p>21. The section for tire carriers should clarify that tire carriers cannot store tires to accommodate load consolidation, delivery schedules, etc.</p>	<p>The proposed amendments explicitly state that tire carriers are prohibited from storing scrap tires. See 391-3-4-.19(5)(d).</p>
<p>22. For tire carriers, set specific limits and record keeping requirements for accumulation.</p>	<p>The proposed amendments explicitly state that tire carriers are prohibited from storing (accumulating) scrap tires. See 391-3-4-.19(5)(d).</p>
<p>23. Change values of the surety bonds to \$25,000 and \$50,000 for tire carriers.</p>	<p>The requirements for financial assurance in the proposed Amendments are identical to those mandated by the 2013 statutory amendments to the Comprehensive Solid Waste Management Act (O.C.G.A §12-8-20, <i>et seq.</i>) of 1990.</p>
<p>24. In the scrap tire storage section, amend to include disposal and/or final disposition for beneficial reuse projects and clarify if other storage requirements included in this section apply to permitted solid waste disposal facilities.</p>	<p>Storage limits for permitted solid waste disposal facilities are established in each facility's solid waste handling permit. Beneficial reuse storage limits are established on a case-by-case basis as proposals are received by EPD.</p>
<p>25. In Section (7) Criteria for Scrap Tire Processors, Sorters, and Disposal Facilities, financial assurance values should better reflect true cleanup cost and be adjusted to keep up with inflation.</p>	<p>The requirements for financial assurance in the proposed Amendments are identical to those mandated by the 2013 statutory amendments to the Comprehensive Solid Waste Management Act (O.C.G.A §12-8-20, <i>et seq.</i>) of 1990.</p>
<p>26. Proposed rules identify EPD's intent to regulate sorters, but do not identify specific requirements for sorters, all existing rules are removed.</p>	<p>EPD has added clarification to the definition of "sorter" to address this comment. The definition reads, "any person, other than a registered scrap tire generator or scrap tire processor, who handles mixed tires by separating used tires and retreadable castings from scrap tires and who is approved through a permit by the Division." Therefore because a sorter must be permitted by the EPD, the permitting process and the guidance documents pertaining to new sorters will define their specific requirements. Subparagraph (7)(b) states</p>

	that existing sorter operations may continue to operate under their existing approval.
27 Georgia needs to develop a formula that equitably shares scrap tire fees (trust fund) with local communities that manage scrap tires.	The issue is beyond the scope of this rulemaking process.
28. The point of final disposition definition should clarify if a permitted solid waste disposal facility is allowed to receive scrap tires, under what conditions, and from whom.	The point of final disposition must be approved by EPD. If a solid waste disposal facility applies to be a point of final disposition, the approval process for a point of final disposition will clarify if that facility may receive scrap tires. The ability to accept scrap tires must be addressed in the facility's Solid Waste Handling Permit.
29.. Scrap tire generator sections (c)2 and (d) appear to conflict. Estimating tires in a mixed load will not provide an accurate number and counting is costly.	The rule provides generators with the option to weigh or estimate the number of tires. This did not change from the existing rule.
30. Used tire dealers should have to prove they meet the same standard related to recycling and beneficial reuse of scrap tires as processors and end users.	Under Subparagraph (2) of the Rule, used tire dealers, are defined to be a "tire retailer selling used tires as defined by this Rule." A used tire is, by definition, "still suitable for its original purpose," therefore a used tire does not meet the statutory definition of a scrap tire under O.C.G.A. §12-8-22 and is not considered solid waste. of scrap tires as processors and end users.