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October 15, 2013

Paulino Luna
Department of Resources Recycling and Recovery
Waste Evaluation and Enforcement Branch,
Attn: Paulino Luna (MS 10A-17)
P.O. Box 4025
Sacramento CA 95812-4025

RE: Proposed Waste Tire Storage, Disposal, and Permitting Regulations

Dear Mr. Luna:

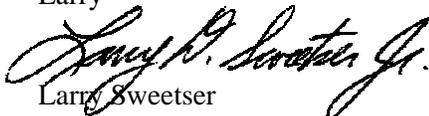
On behalf of the 22 rural county members, the Rural Counties' Environmental Services Joint Powers Authority (ESJPA) appreciates the opportunity to provide comments on the proposed Waste Tire Regulations. Overall, the ESJPA appreciates the need for modification of the existing regulations on Waste Tire Facilities. Although it did not seem the intent of these proposed regulations was to affect other solid waste facilities whose primary purpose is not collection of tires, the proposed regulations could inadvertently affect those other facilities. If the intent was to impose new standards on those other solid waste facilities, our concern would be much greater. There are several areas of concern regarding this proposal including:

- Expansion of technical and operational standards to all solid waste facilities would be excessive for small solid waste facilities and/or facilities handling limited amounts of tires
- Allowance of tire records at off-site facilities
- More explanation or a delay in required revision of solid waste facility permits especially for those facilities handling less than 150 waste tires per day averaged on an annual basis

Imposing some of these requirements on smaller facilities could significantly affect their continued operations and thus we disagree with the statement in the Notice of Proposed Rulemaking that there is no impact on small business or local governments. More detailed information on these concerns is attached.

Please contact me at (510) 703-0898 or lsweetser@rcrcnet.org with any questions.

Larry



Larry Sweetser
ESJPA Consultant

Enclosure

cc: Members, Rural Counties' Environmental Services Joint Powers Authority
Mark deBie, Deputy Director, CalRecycle

ESJPA Comments on Proposed Waste Tire Regulations

Expansion of technical and operational standards to all solid waste facilities would be excessive for small solid waste facilities and/or facilities handling limited amounts of tires

Classification of all facilities handling any amount of waste tires as a "Waste Tire Facility" under Section 17225.850 is excessive especially when that classification imposes new state minimum standards on these facilities. The Initial Statement of Reasons does not provide any justification to establishing a zero threshold. As proposed, the state minimum standards would apply to any facility accepting even one tire.

The standard as proposed would also apply to a landfill allowed to accept tires commingled with solid waste or inadvertently in homeowner mixed loads under Section 17355. In addition, there are a number of small or limited volume permitted solid waste transfer stations that are not attended that would be required to meet these standards including the requirement for an attendant.

The proposed standards should only apply to larger facilities. The proposed regulations should be revised as follows:

§ 17225.850. Waste Tire Facility.

"Waste Tire Facility" means a waste tire facility as that term is defined by Public Resources Code section 42808 and includes exempt or excluded facilities, minor waste tire facilities, major waste tire facilities, and facilities where ~~more less~~ than 500 waste tires are or will be stored, stockpiled, accumulated, or discarded.

The applicability of the technical and operational standards to all facilities accepting any amount of tires is excessive and no justification has been provided in the proposed rulemaking packet. Some of the requirements are already addressed under existing standards for all solid waste facilities but some are more extensive than warranted by information provided to date. We are requesting reinstatement of the exemption of less than 500 tires. Comments on each of the proposed applicable standards is included below:

§ 17350. Applicability.

(a) A waste tire facility, including a permitted facility and a facility excluded or exempt from permitting requirements, that stores a total of 500 or more waste and/or used tires shall comply with the technical and operational requirements of Division 7, Chapter 3, Article 5.5 of Title 14 of the California Code of Regulations.

(a)(1) Any waste tire facility storing ~~500 or more~~ 500 or more waste tires outdoors ~~must~~ shall comply with the technical and operational standards set forth in sections 17351 through ~~17355~~ 17354, and sections 17357 through 17359 of this Article., and the applicable fire prevention requirements set forth in sections 2501 through 2508 of Title 24 of the California Code of Regulations.

- §17351. Fire Prevention Measures - (c) We support the requirement to impose the water suppression standard only on facilities where the amount of tires exceeds 10,000. The requirement for a minimum of 1,000 gallons per minute would be excessive for some smaller solid waste facility operations that do not have plumbed water supplies on site. Installation of a standalone water suppression system for small facility would be cost prohibitive and could result in closure of smaller

facilities due to the cost of implementing such a system. In addition, the list of minimum equipment at smaller and unattended sites is difficult since some of these sites do not have secure areas for storage of any equipment and it is not feasible for the attendant to transport these items each trip especially if they are using a personal vehicle. If a minimum threshold is reestablished, the list could be appropriate for larger facilities otherwise the minimum equipment list should be optional or suggested.

- §17352. Facility Access and Security – The requirement for an attendant to be present during operations would result in facilities that are allowed to be unattended (limited volume and others such as small rural transfer stations consisting of one or two containers in remote areas) would be forced to provide an attendant or cease accepting tires which could result in illegal dumping of those tires. Both of these options would impose extraordinary cost measures and may force those facilities to close rather than provide the cost of an attendant.

In addition, the requirement for an access road should be limited to times the facility is active. Some small facilities close in the winter when access is blocked by snow or other weather conditions. These seasonal fluctuations should be recognized in the requirement for continued access.

- §17353. Vector Control Measures – The requirements for vector control do not clearly indicate that if no vector issue exists, no other measures are required.
- § 17354. Storage of Waste Tires Outdoors – The referenced fire code requirement are more applicable to larger tire facilities and are excessive when smaller amounts of tires are stored. The existing 500 tire limit should remain for this requirement.
- §17357. Recordkeeping – This requirement should allow for off-site storage of any records if the storage of records at the location is not feasible or the integrity of the records cannot be maintained. Some remote solid waste facilities do not have a secure storage area for records or the long term integrity of the records cannot be maintained due to security or weather. The site operator should be allowed to store applicable records off-site provided they can be provided to the appropriate regulatory agency upon request. This language allowing record storage “on-site or at a location where records can be provided upon request” should be used throughout the waste tire regulations whenever storage of records is indicated.
- §2504.5 Fire safety plan – The requirement to prepare and submit to the fire code official a fire safety plan for review and approval is typically reasonable but in some cases volunteer fire departments or departments with limited staffing have not prioritized approval of these plans. Some departments do not have a process for approval of these plans. In order to address these issues, the proposed regulations should provide for submittal of the plans but not require approval unless that agency has a process for approval.
- §2505 Outdoor storage – The requirements for pile storage of tires seems most applicable for larger facilities and the exemption for less than 500 tires should be imposed on this requirement. If CalRecycle has information that a lower threshold is needed, that information should be presented and discussed with stakeholders.

The above request to allow off-site storage of records also applies to the proposed requirement below

§ 17357. Recordkeeping.

(a) A waste tire facility shall maintain records documenting the quantity of waste tires received, stored and shipped from the site. The records may include log entries describing the methods of receipt and removal of the waste tires, the number of waste tires received and removed, the name of the person employed to deliver or remove the waste tires, and Manifest Forms.

(b)A waste tire facility shall retain waste tire records as set forth in subsection (a) for three (3) years . On request, a waste tire facility shall provide these records to an authorized Department representative.

The following section should be revised as follows:

(b)A waste tire facility shall retain waste tire records as set forth in subsection (a) for three (3) years either on-site or at a location where records can be provided upon request. On request, a waste tire facility shall provide these records to an authorized Department representative.

The proposed regulations seem to imply that solid waste facilities that already receive tires would need to “revise” their permit to reflect continued acceptance of tires in Section 18420 (a)(1). It would be more appropriate to require that change be reflected on the next permit revision rather than force a revision to allowed continued acceptance. The time needed to revise a permit can be lengthy and could result in facilities ceasing acceptance of tires until the permit is revised. If this is not the intent, the language should be changed to clearly reflect the intended change. The language in Section 18420 (a)(1) seems to imply that the revision of a solid waste permit is required only if the facility receives less than 150 tires. This language is not clear and should be revised.

§ 18420. Applicability.

(a) The operator of a waste tire facility shall acquire a waste tire facility permit in accordance with the requirements of this Chapter and ~~PRC~~Public Resources Code section 42808, unless any of the following conditions exist:

(1) The waste tires are stored or disposed at a permitted solid waste disposal facility. or at a permitted solid waste facility which receives less than 150 waste tires per day averaged on an annual basis. The permit of the solid waste facility shall be revised pursuant to Public Resources Code (~~PRC~~)section 44014 and shall conform to the requirements of Division 7, Chapter 3, Article 5.5 of Title 14 of the California Code of Regulations.

The earlier comment to allow offsite storage of records also applies to the following section.

§ 18462. Manifest System Requirements for Waste Tire Generators

As provided in Section 18459.3(a), a waste tire generator shall retain a Department approved EDT form, ~~or~~ completed CTL Form, or freight transport documentation provided by the ~~used or~~ waste or used tire hauler at their place of business for 3 years. For shipments to the port, the waste tire generator shall also retain the confirming freight transport documents at their place of business for three years or at a location where access can be provided upon request.