

*FINAL STATEMENT OF REASONS*  
**Waste Tire Storage, Permit, and Penalty Criteria Revisions**

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## GENERAL COMMENTS

SB 63 (Statutes of 2009, Chapter 21, Section 5) eliminated the California Integrated Waste Management Board (CIWMB, IWMB, or Board) and transferred its regulatory and programmatic functions to the Department of Resources Recycling and Recovery (Department) effective January 1, 2010. The Department is responsible for implementing State law related to handling, hauling, storage, and disposal of waste tires. The Department recognizes waste tire beneficial reuse projects as a partial solution to landfill disposal of waste tires pursuant to Public Resources Code (PRC) section 42871. Throughout this FSOR, waste tire means “waste tire” as defined in PRC 42950 and in section 18450(a). A waste tire includes a repairable tire, scrap tire, and altered waste tire, but does not include a tire derived product, crumb rubber, or a used tire.

Pursuant to the PRC commencing with section 42800, Article 1, Chapter 16, Part 1, Division 30, CIWMB adopted its first permitting and storage regulations for waste tire facilities in 1993. These regulations incorporated applicable fire safety requirements from two sources: a) Title 24 California Building Standards Code, which is “...published in its entirety every three years by order of the California legislature, with supplements published in intervening years,” and b) *The Standard for Storage of Rubber Tires*, National Fire Protection Association (NFPA), publication 231D, 1989. Part 9 of Title 24 is the California Fire Code (CFC). Accordingly, the Department decided to carry out a rulemaking to incorporate the most current applicable CFC standards.

Department fire prevention standards are included in Title 14 California Code of Regulations (14 CCR) section 17350 et seq., commonly referred to as State Minimum Standards (SMS). SMS specify requirements for storage and handling of waste tires at any waste tire facility, specifically related to the prevention of fire, vectors, unauthorized access and recordkeeping, and are necessary to protect public health, safety, and the environment.

In 2000, the California State Legislature noted that stockpiles of waste tires “pose serious threats to public health, safety, and the environment particularly when they are improperly maintained and catch fire.” The California State Legislature designated the Department to regulate waste tires throughout the State to ensure that they are properly maintained. PRC section 42808 defines a waste tire facility, and places permitting requirements on waste tire facilities based on specified waste tire amounts. However, many waste tires move through or are stored at waste tire facilities that are not required to obtain a waste tire facility permit. To ensure that waste tires stored at unpermitted waste tire facilities are properly maintained and accounted for, and to ensure that the Department can track the movement of these waste tires throughout the State, the

Department decided to carry out a second rulemaking to address potential stakeholder concerns.

In mid-2010, the Department initiated two separate rulemakings. One focused on revising waste tire facility enforcement regulations, and the other aimed at incorporating applicable current CFC standards into current waste tire storage and disposal requirements.

From July 2010 through July 2011, the Department provided informal public comment periods and public workshops for both rulemakings. To more efficiently use Department resources, and because these two rulemakings are closely related, the Department combined the scope of these informal rulemakings into a single regulations change package.

In developing the proposed regulations, the Department considered:

- Oral and written comments from industry, government and environmental group representatives and the general public at informal comment periods and workshops
- Written comments from industry, government and environmental group representatives during a:
  - 45-day comment period ending October 15, 2013,
  - 30-day comment period ending January 20, 2014,
  - 15-day comment period ending April 18, 2014, and
  - 15-day comment period ending May 12, 2014.
- Oral and written comments from industry, government and environmental group representatives and the general public during an October 16, 2013 formal public hearing, and
- Telephone and e-mail contacts with State Fire Marshal and local fire authorities.

The purpose and scope of the proposed waste tire regulations incorporate the informal and formal public comments described above. The comments and responses received during the four formal comment periods are incorporated herein by reference as a basis for the changes described herein and set forth in the proposed text.

The CFC was updated after the 45-day comment period ended. The 2013 CFC became effective on January 1, 2014. The 2013 CFC was renumbered and caused the Department to reevaluate the manner in which the CFC was referred to in the proposed text. The parts of the final proposed text that set forth fire standards are based on the 2013 CFC. PRC section 42820 requires the Department to incorporate by reference the

regulations adopted by the State Fire Marshal. As the 2013 CFC sets forth the most up-to-date requirements set forth by the State Fire Marshal, the proposed regulations incorporate by reference the relevant sections of the 2013 CFC. However, based on comments received, the proposed text also includes language that specifically states some of the standards set forth in the 2013 CFC for ease of use by the regulated community and authorized representatives of the Department. Additionally, communications between the Department and the Office of Administrative Law during this rulemaking process indicate that this process of incorporating the fire code by reference and also stating fire code in the proposed text, is the preferred method and may allow the Department to make changes to these proposed regulations, when the CFC changes in the future, through a Section 100 change. These communications are incorporated herein by reference, and included in this rulemaking package as Supplemental Information. Additionally, the State Fire Marshal was consulted during this rulemaking process.

The objectives of the formal rulemaking process associated with the proposed waste tire regulations are:

- Incorporate applicable current CFC standards into Department waste tire storage and disposal standards,
- Add 3, delete 2, and amend 26 definitions
- Specify requirements for “waste tire collection location”
- Clarify statutory definition of “tire derived product”
- Simplify waste tire facility permit reapplication procedure including removing the requirements that a waste tire facility permit expire after five years
- Add:
  - Notification requirement for “excluded” waste tire facility, and
  - Recordkeeping requirements for persons handling waste or used tires
- Require additional information and clarify the requirements when a person is seeking an exemption from a waste tire facility permit for a cement kiln under PRC 42823.5 and for beneficial reuse projects.
- Remove requirement that the Department issue a “Cleanup and Abatement Order” (CAO) before issuing a waste tire facility penalty
- Expand and clarify Department waste tire facility penalty schedule
- Specify manifest requirements for delivery of waste tires to a port terminal
- Update reference to Department, and
- Correct spelling, punctuation, grammatical and typographical errors.

Throughout the proposed regulations, the Department proposes several changes to improve accuracy, clarity, and consistency:

- Spell out “14 CCR,”
- Spell out “PRC,”
- Spell out “waste tire,” excluding use of “waste tire facility” in proposed subsection 18429(h), Tables 1 through 7,
- Replace “Board” with “Department,”
- Replace “must” with “shall,”
- Replace “(See Appendix A)” with “(See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A),”
- Replace “used or waste” with “waste or used,” and
- Replace “used and waste” with “waste and used.”

This Final Statement of Reasons (FSOR) is organized to:

- Discuss a current section by article and section number. If deletion is proposed, discuss the purpose and necessity to delete it.
- If there is a proposed section with the same number as a current section, discuss the action related to the current section, then discuss the purpose and necessity of the proposed section with the same number.
- If a current section is moved, or moved and amended, discuss this action in the current section, then discuss the purpose and necessity of the move, or move and amendment in the proposed section.
- If a section or subsection is added, discuss its purpose and necessity.

#### TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

Throughout this FSOR, the Department response to the requirement to identify each study, report, or document relied upon, if any, for each proposed regulatory action is:

1. PRC, Division 30, Part 3; and 14 CCR, Division 7.
2. Statutory changes since waste tire program regulations were adopted in 1993
3. 2013 CFC Chapters 2, 9, 32 and 34.
4. Economic And Fiscal Impact Statement, STD. 399, per Government Code (GC) section 11346.5. See Attachment 1.
5. Economic Impact Assessment per GC 11346.3(b). See Attachment 2, and
6. Additional reference materials:
  - a) CIWMB’s Tire Recycling Plant, 10 Min., 1993, Videocassette.

- b) Moore, David. *Statistics: Concepts and Controversies*. New York: W.H. Freeman and Company, 2001. 19-70. Print.
- c) California Employment Development Department, Labor Market Information Division, 2010 Quarterly Census of Employment and Wages. *Custom Data Request for Number of Establishments by NAICS Code, June 14, 2012.*
- d) U.S. Bureau of Labor Statistics, May 2010 Occupational Employment and Wage Estimates: *Major CA 2010 Annual Average Occupational Groups, North American Industry Classification System (NAICS) Code/Title.*
- e) U.S. Bureau of Labor Statistics, News Release USDL-12-0450, *Employer Costs For Employee Compensation – December 2011.*

The videocassette *Tire Recycling Plant* was mistakenly stated as an additional reference material in the Initial Statement of Reasons. However, this video was not relied upon by the Department in any way to create or explain the proposed regulations. Therefore, it has been deleted from the reference materials in this Final Statement of Reasons.

## REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

Throughout this FSOR, the following statement applies to the reasonable alternatives requirement for each proposed regulatory action.

Alternatives to the proposed regulations were considered, including a “no-action” alternative. The Department determined that: 1) no alternative would be as effective and less burdensome to private persons, while at the same time protecting public health, safety, and the environment; and 2) no alternative would lessen adverse economic impact on small businesses while protecting public health, safety, and the environment. The Department attempted to use reasonable performance standards rather than prescriptive standards to minimize impact on small businesses while still collecting information required by statute.

The Department considered several alternatives associated with this rulemaking. The Department presented these alternatives to the public through several informal public comment periods and public workshops.

Specifically, the Department evaluated several alternatives to improve the clarity and accuracy of waste tire program regulations, including: modification of minor waste tire facility permit requirements to allow temporary increases in permitted capacity, incorporating waste tire fire standards in Department waste tire storage regulations, and modifying waste tire manifesting requirements at port terminals.

Regarding modification of minor waste tire facility permit requirements to allow temporary increases in permitted capacity, the waste tire industry requested that waste tire regulations be modified to allow temporary increases in waste tire storage when they need to process large numbers of waste tires for construction projects, such as: rubberized asphalt paving, lightweight fill for highway embankments, retaining wall backfill, vibration damping layers beneath rail lines, insulation layer to limit frost penetration in roadways, and landfill applications. The Department determined that developing regulations to accommodate this request cannot be implemented based on: waste tire law, CFC requirements, and consideration of the approval authority of local governments and environmental review agencies.

Applicable current CFC standards were restated in informal draft proposed regulations. Informal public comments requested that the Department refer to applicable current CFC section numbers, rather than simply restate applicable current CFC requirements, particularly since CFC standards may change over time resulting in out-of-date Department regulations. In response, the Department modified the proposed regulations to refer to applicable current CFC section numbers. However, a comment received during the formal rulemaking informed the Department that the CFC had been updated for 2013 and the previously referenced subsections had been renumbered, making the references inaccurate. The same commenter requested the Department return to restating applicable current CFC standards in proposed sections 17351, 17354, and 17356

Waste tire manifesting requirements at a port terminal need to be modified since the current requirement to leave a completed Manifest Form at a port terminal does not work. There is frequently no person at a port terminal who is authorized to accept and retain copies of the Manifest Forms. Based on stakeholder input, the proposed regulations require the hauler to leave a completed Manifest Form with the waste tire generator indicating the quantity of waste tires to be delivered to a port terminal.

#### **DETERMINATION THAT THE ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

Throughout this FSOR, the following statement applies to the requirement that the action will not have a significant economic impact for each proposed regulatory action.

These regulations will not have a significant adverse economic impact on business, including small businesses, or on the ability of California businesses to compete with businesses in other states, will not result in the creation or elimination of jobs, or the

creation of new, or the expansion or elimination of existing California businesses. Surveyed private businesses with waste tires indicated that there would be minimal cost impacts for each business.

The Department determined that the proposed regulations do not impose a mandate on local agencies or school districts that requires State reimbursement pursuant to Part 7, commencing with section 17500 of Division 4 of the Government Code.

While the CFC sections now inserted into the proposed regulations are building standards the proposed regulations do not create any additional restrictions not already required by the CFC itself. Therefore, the Department did not evaluate the cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates, for those specific proposed regulation sections, pursuant to Government Code section 11346.2. Additionally, because sections of the CFC were only incorporated by reference and not actually inserted into the proposed text at the time these proposed regulations went to Notice, this Government Code requirement was not discussed in the Initial Statement of Reasons.

#### DUPLICATION OR CONFLICTS WITH CODE OF FEDERAL REGULATIONS

Throughout this FSOR, the following statement applies to the duplication or conflicts with Code of Federal Regulations requirement for each proposed regulatory action.

No unnecessary duplication or conflict exists between the proposed regulations and the Code of Federal Regulations because federal law or regulations do not contain comparable requirements.

#### FINDING ON NECESSITY OF REPORTS

The Department has found that the requirement for specific creation, maintenance, and availability of records or reports within these regulations are necessary for the health, safety, and welfare of the people of the state because it will help ensure that the standards prescribed by the Public Resources Code and these regulations are met and adequately monitored.

**CHAPTER 3. MINIMUM STANDARDS FOR SOLID WASTE HANDLING AND DISPOSAL**

**ARTICLE 4.1. WASTE TIRE PROGRAM DEFINITIONS**

**Section 17225.717 – Collection**

**SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Current section 17225.717 is deleted. It is replaced, in part, by proposed section 18420.1. Recently, a number of waste tire businesses with 5,000 or more waste tires on-site claimed that these waste tires were in collection to avoid obtaining a waste tire facility permit. Additional clarification of requirements is needed to ensure waste tire businesses that claim to be collecting waste tires are operating in a manner that protects public health, safety and the environment, and conform to manifesting and local government requirements. Proposed section 18420.1 specifies a waste tire “Collection Location” is a waste tire facility subject to Department regulation.

**Section 17225.821 – Indoor or Indoors**

**SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Proposed section 17225.821 is added to clarify that within the context of Division 7, Chapters 6, and Division 7, Chapter 3, Article 5.5 of the PRC, the term “indoor or indoors” means waste tires or waste tire equivalents located within a building.

2013 CFC section 202 defines a building as “any structure used or intended for supporting or sheltering any use or occupancy.” Adding “indoor or indoors” is necessary to ensure consistency between waste tire regulations and the 2013 CFC, and avoid duplication of the 2013 CFC in applying “indoor or indoors” storage requirements in proposed section 17356 and to ensure that the regulated community, the Department and its authorized representatives are aware of which standards to apply. The requirements for storage of waste tires indoors contrasts with requirements for outdoor storage and underground disposal of waste tires. This proposed section is also necessary to clarify current and proposed waste tire SMS and to ensure Department regulations are consistent with the 2013 CFC.

## **Section 17225.822 – Exempt or Excluded**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Pursuant to PRC section 42808, defines a waste tire facility as a location that stores, stockpiles, or accumulates 500 or more waste tires. PRC sections 42823, 42824 and 42834 require major and minor waste tire facilities to possess waste tire facility permits. Furthermore the PRC and current regulations provide for certain waste tire facilities are not considered minor waste tire facilities and therefore can store, stockpile, or accumulate 500 or more waste tires without first obtaining a waste tire facility permit.

PRC sections 42823.5(a) and 42831 exempt three types of waste tire facilities from obtaining a waste tire facility permit if specified requirements are met:

- a cement manufacturing plant storing not more than a 1-month supply of waste tires,
- a tire retreading business storing not more than 3,000 waste tires, and
- a person using waste tires for agricultural purposes.

Proposed section 17225.822 is added to clarify the existence of these waste tire facilities that store, stockpile, or accumulate 500 or more waste tires but that are not required to obtain a waste tire facility permit, and is added to conform with exempt or excluded waste tire facilities defined by statute, current regulations, and proposed regulations.

Proposed section 18431.3 exempts a beneficial reuse project from the requirement to obtain a waste tire facility permit if specified requirements are met.

Current section 18420(a) excludes several types of waste tire facilities from the requirement to obtain a waste tire facility permit if specified requirements are met:

- a permitted solid waste disposal facility
- a facility using fewer than 5,000 waste tires for agricultural purposes
- a facility storing fewer than 500 waste tires
- a tire retreading business with not more than 3,000 waste tires
- an automobile dismantler storing not more than 1,500 waste tires
- a tire dealer storing not more than 1,500 waste tires, and
- a used tire dealer storing fewer than 1,500 waste tires.

Proposed section 18420.1 excludes a waste tire collection location storing no more than 4,999 waste or used tires if specified requirements are met.

Proposed section 17225.822 is necessary because defining “exempt or excluded” would assist the Department and the regulated community to accurately identify these waste tire facilities and ensure that the terms and requirements set forth in these proposed regulations are correctly applied.

## **Section 17225.850 – Waste Tire Facility**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Proposed section 17225.850 is added to clarify the PRC section 42808 definition of a waste tire facility.

Proposed section 17225.850 is necessary to specify that a location that stores, stockpiles, or accumulates waste tires is a waste tire facility, such as:

- A permitted solid waste facility that receives for transfer or disposal at least 150 tires per day averaged over a 365-day period,
- A permitted or unpermitted major waste tire facility (5,000 or more waste tires),
- A permitted or unpermitted minor waste tire facility (500 – 4,999 waste tires),
- An exempt waste tire facility,
- An excluded waste tire facility, and
- A location with less than 500 waste tires.

“Waste Tire facility” is added and used throughout these proposed regulations to include the above-listed facilities in order to clarify that all locations that store, stockpile, or accumulate waste tires are required to meet specific standards because waste tires stored at any of the above-listed facilities may pose a similar threat to public health, safety, and the environment. Also, waste tire facilities not required to obtain a major or minor waste tire facility permit may still be subject to local land use approvals and other local government requirements. Therefore it is important to have all locations that store tires to meet minimum reporting and notification requirements so that the Department can assure that these facilities do not grow to cause a public nuisance or a threat to the public, health, safety and the environment. Furthermore, this reporting and notifications assist the department in tracking tires and can better reduce illegal dumping.

The language “but does not include permitted solid waste facilities that receive for transfer or disposal less than 150 tires per day averaged over a 365-day period,” is

necessary for consistency with PRC section 42808 and to clarify that the “annual basis” required by PRC section 42808 encompasses any 365-day period and not specifically a calendar or fiscal year.

**ARTICLE 5.4. WASTE TIRE MONOFILL REGULATORY REQUIREMENTS**

**Section 17346 – Authority and Scope**

**SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

**Subsections (a) through (e)** No change.

**Subsection (f)** Current subsection 17346(f) is amended to clarify that before a project may qualify as a waste tire beneficial reuse project, Department approval and compliance with proposed section 18431.3 are required.

The term “Board” is replaced with “Department” pursuant to PRC section 40400. Beneficial reuse project requirements are consolidated and moved to Article 4 (Permit Application), Chapter 6, Division 7 for a more logical location within Division 7. Deleting beneficial reuse requirements in this subsection eliminates redundancy in the regulations.

**Subsection (f)(1)** Current subsection 17346(f)(1) is deleted. It is replaced in part by proposed subsection 18431.3(c). All requirements for beneficial reuse projects are consolidated in proposed section 18431.3, so current subsection 17346(f)(1) is no longer needed.

**Subsection (f)(2)** Current subsection 17346(f)(2) is deleted. It is replaced in part by proposed subsection 18431.3(c). All requirements for beneficial reuse projects are consolidated in proposed section 18431.3, so current subsection 17346(f)(2) is no longer needed.

**Subsection (f)(3)** Current subsection 17346(f)(3) is deleted. It is replaced in part by proposed subsections 18431.3(b) and 18431.3(c). All requirements for beneficial reuse projects are consolidated in proposed section 18431.3, so current subsection 17346(f)(3) is no longer needed.

The Reference Note at the end of current section 17346 is amended to sequence PRC section numbers in ascending order, without regulatory effect.

## **ARTICLE 5.5. WASTE TIRE STORAGE AND DISPOSAL STANDARDS**

### **Section 17350 - Applicability**

#### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Current section 17350 is amended to clarify that permitted, exempt or excluded waste tire facilities, and solid waste facilities that store 500 or more waste tires, are subject to SMS. Proposed section 17350 also specifies an authorized representative of the Department may inspect any of these waste tire facilities.

The proposed amendments are necessary because while an “exempt or excluded” waste tire facility or a specific type of solid waste facility is not required to obtain a minor or major waste tire facility permit, it is subject to applicable SMS. Clarifying that an authorized representative of the Department may inspect any waste tire facility, permitted or unpermitted, or any solid waste facility is necessary to: 1) discourage mishandling of stored, accumulated, or discarded waste tires at a waste tire facility, and 2) protect public health, safety and the environment from dangers that accumulations of waste tires may pose.

Grammar and punctuation changes are made for consistency with the format used throughout the proposed regulations.

**Subsection (a)** Current subsection 17350(a) is moved to proposed subsection 17350(a)(1) and amended.

Proposed subsection 17350(a) is added to clarify that SMS in Division 7, Chapter 3, Article 5.5 of 14 CCR apply to any waste tire facility, or a solid waste facility, that stores “a total of 500 or more” waste tires. The word “total” is necessary to specify that “500 or more” includes the sum of all waste tires stored indoors, outdoors, in trailers, or any combination thereof, at these facilities. Sentence two of proposed subsection 17350(a) is added to specify any tire, at the time of inspection, that does not meet the PRC 42806.5 definition of “used tire” is counted as a waste tire to make anyone storing, stockpiling, or accumulating tires aware that the Department will count all tires onsite as waste tires unless the Department, at the time of inspection, can verify that a tire meets the requirements of a used tire set forth in PRC section 42806.5.

**Subsection (a)(1)** Proposed subsection 17350(a)(1) is moved from current subsection 17350(a) and amended.

Proposed subsection 17350(a)(1) is necessary to specify which SMS of 14 CCR apply to waste tires stored outdoors at any of the facilities listed in section 17350(a). As required by PRC sections 42820 and 42830, the Department consulted with State Fire Marshal staff in developing the proposed regulation.

Proposed subsection 17350(a)(1) is amended for clarity and consistency with the proposed regulations. The phrase “500 or more” is deleted because it is included in proposed subsection (a). The phrase “Any facility storing” was also deleted to avoid confusion, because the types of facilities to which this subsection applies are already listed in subsection (a). The word “must” is replaced with “shall” for consistent use of terms throughout the regulations. The phrase “set forth” is added for clarity. Reference to section “17355” is deleted and replaced with “17354, and sections 17357 through 17359” to accurately refer to applicable sections in the proposed regulations.

**Subsection (a)(2)** Proposed subsection 17350(a)(2) is moved from current subsection 17350(b) and amended. Proposed subsection 17350(a)(2) is necessary to specify which SMS of 14 CCR apply to waste tires stored indoors at any of the facilities listed in section 17350(a). The current subsection 17350(b) phrase “Any facility storing” is deleted to avoid confusion, because the types of facilities to which this subsection applies are already listed in subsection (a). The word “must” is replaced with “shall” for consistent use of terms throughout the regulations. The phrase “set forth” is added for clarity. The word “section” is deleted and replaced with “sections 17351, 17352, 17353, and sections”, and after the number “17356” the phrase “through 17359” is added to accurately refer to applicable sections in the proposed regulations. Although the phrase “, and the applicable fire prevention requirements set forth in sections 2301, 2305, 2306, 2501 through 2504, and 2506 through 2509 of Title 24 of the California Code of Regulations” was initially added to refer to correct CFC sections for storing waste tires indoors, it was removed during the proposed rulemaking process, because the references to the California Fire Code, in Title 24, are listed in the separate proposed sections of Title 14 to which they apply.

**Subsection (b)** Current subsection 17350(b) is moved to proposed subsection 17350(a)(2) and amended. The proposed changes are discussed in proposed subsection 17350(a)(2).

Proposed text for subsection 17350(b) has been moved from current subsection 17350(c).

**Subsection (c)** Current subsection 17350(c) is moved to proposed subsection 17350(b).

Proposed text for subsection 17350(c) has been moved from current subsection 17350(d) and amended. The acronym “PTE” is deleted because the acronym is not used elsewhere in the proposed regulations. The phrase “...as that term is defined in section 17225.770 of this Chapter” is added to clarify where the definition of “Passenger Tire Equivalents” is located to ensure that the term is applied correctly.

**Subsection (d)** Current subsection 17350(d) is moved to proposed subsection 17350(c) and amended.

Proposed subsection 17350(d) is added to clarify that all waste tire facilities, including major permitted, minor permitted, and exempt or excluded waste tire facilities, are subject to Department inspection as authorized by current waste tire law. This is necessary to clarify requirements and correct a misconception that only major and minor permitted waste tire facilities are subject to waste tire facility enforcement by the Department and/or an authorized representative of the Department. The Department and/or an authorized representative of the Department cannot presume that an unpermitted, exempt, or excluded waste tire facility complies with current waste tire law and regulation. The Department and/or an authorized representative of the Department needs evidence of compliance through periodic inspections by authorized staff.

**Subsection (e)** Proposed subsection 17350(e) is added to clarify that Article 5.5 of Chapter 3 of Division 7 of Title 14 CCR does not relieve any waste tire facility or solid waste facility owner or operator from other applicable CFC or local government requirements, nor do the standards in the proposed regulations take the place of any other applicable CFC or local government requirements or standards. The California Legislature has given the Department authority over the storage of waste tires within California. However, some persons who store waste tires within California may be engaging in activity that would require compliance with portions of the CFC not provided in this section, or a business license or permit that the Department does not have authority to grant. Therefore, this requirement is necessary to alert stakeholders that they may need other permits or licenses for the activities they are engaging in, and that the requirement for holding such a permit or license may not be met simply by complying with these storage requirements.

**Subsection (f)** Proposed subsection 17350(f) is added to clarify that all waste tire facilities shall comply with applicable recordkeeping requirements in proposed sections

17357 and 17358. Section 17350 provides a general roadmap for waste tire facilities of the SMS regulations, so that waste tire facilities can easily see what they need to comply with. Therefore, this subsection reference to subsections 17357 and 17358 is necessary to ensure that those proposed subsections are not overlooked by waste tire facilities.

The “Authority cited” note at the end of current section 17350 is amended to add PRC section numbers 42821 and 42832 because those sections also serve as authority for incorporating the CFC into the proposed regulations.

## **Section 17351 – Fire Prevention Measures**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

The phrase “Pursuant to the California Fire Code, Title 24 of the California Code of Regulations, sections 3201.1 through 3210.1, 3404.1 through 3408.2, which are hereby incorporated by reference, any person storing 500 or more waste tires shall meet the following requirements,” was added, because those specific sections of the 2013 CFC set forth standards for fire prevention measures applicable to facilities that store waste tires. The sections are incorporated by reference pursuant to PRC section 42820; the State Fire Marshal was consulted during this rulemaking process. Text proposed throughout this section, as described below, is directly from these referenced sections of the 2013 CFC.

**Subsection (a)** Current subsection 17351(a) is moved to proposed subsection 17351(b) and amended.

Proposed subsection 17351(a) is added to conform to 24 CCR section 3404.5 to require that a waste tire facility or solid waste facility operator shall demonstrate preparation and submittal for approval to the applicable fire safety code official of a fire safety plan that: includes provisions for fire department vehicle access, is available at time of inspection, and is available at time of application for a new permit, permit review or permit revision. While the Legislature has required that the Department in PRC section 42821 and 42832 promulgate and enforce regulations that contain fire prevention measures related to waste tires, the local fire code official ultimately has the most expertise regarding fire safety in the field. Requiring the waste tire facility or solid waste facility operator storing 500 or more waste tires to submit a fire safety plan to the applicable fire safety code official ensures that the fire safety plan will be reviewed by the agency best fit to adequately assess the provisions submitted in the fire safety plan. Also, requiring the fire safety plan to be available at the time of inspection or at the time

of application for a new permit, permit review, or permit revision is necessary because the fire safety plan may include specific provisions that need to be used to evaluate the status of the facility at the time of inspection, or taken into consideration by the Department when a permit is being reviewed or revised or newly issued.

**Subsection (b)** Current subsection 17351(b) is moved to proposed subsection 17351(c) and amended.

Proposed subsection 17351(b) is moved from current subsection 17351(a) and amended to replace the phrase “all facilities” with “all waste tire facilities and solid waste facilities” to make clear that the requirements of this subsection apply to both waste tire facilities and solid waste facilities. The phrase “local fire protection authorities” is replaced with “local fire authority” to conform to the 2013 CFC wherein “local fire authority” is used. Also, the sentence “The telephone number of the local fire authority and location of the nearest telephone shall be posted conspicuously in attended locations” is added to conform with 24 CCR section 3404.6. This requirement is necessary to ensure any person onsite at a waste tire facility or solid waste facility storing 500 or more tires can promptly contact emergency personnel in the event of a fire emergency at the facility.

**Subsection (b)(1)** Current subsection 17351(b)(1) is moved to proposed subsection 17351(c)(1) and amended.

**Subsection (b)(2)** Current subsection (b)(2) is deleted because the current text does not appear as a requirement for the storage or waste tires within the 2013 CFC.

**Subsection (b)(3)** Current subsection 17351(b)(3) is moved to proposed subsection 17351(c)(2) and amended.

**Subsection (b)(4)** Current subsection 17351(b)(4) is moved to proposed subsection 17351(c)(3) and amended.

**Subsection (b)(5)** Current subsection 17351(b)(5) is moved to proposed subsection 17351(c)(4) and amended.

**Subsection (c)** Current subsection 17351(c) is moved to proposed subsection 17351(d) and amended.

Proposed subsection 17351(c) is moved from current section 17351(b) and amended to: replace the word “must” with “shall” for consistent use of terms throughout the regulations, replace the phrase “the facility” with “the waste tire facility or solid waste facility” to make clear that the requirements of this subsection apply to both waste tire

facilities and solid waste facilities storing, stockpiling, or accumulating 500 or more waste tires; and add a comma after the introductory clause “at a minimum” for grammatical purposes.

**Subsection (c)(1)** Proposed subsection 17351(c)(1) is moved from current subsection 17351(b)(1) and amended to: delete “One (1) dry chemical fire extinguisher,” and add “Buildings or structures shall be equipped with portable fire extinguishers in accordance with Section 906 of the California Fire Code” to conform with 24 CCR section 3408.2.

**Subsection (c)(2)** Proposed subsection 17351(c)(2) is moved from current subsection 17351(b)(3) and amended to delete the conjunction “and” because as the proposed requirements for subsection (c) extend beyond (c)(3).

**Subsection (c)(3)** Proposed subsection 17351(c)(3) is moved from current subsection 17351(b)(4) and amended to correct punctuation and grammar errors by replacing a period punctuation mark with a semi-colon punctuation mark, and adding the conjunction “and” because the proposed requirements for subsection (c) end with subsection (c)(4).

**Subsection (c)(4)** Proposed subsection 17351(c)(4) is moved from current subsection 17351(b)(5) and amended to: replace the phrase “dry chemical” with “portable”, and replace the fire extinguisher rating “4A:40BC” with “A:40-B:C” to conform with 24 CCR section 3408.2. Additionally, the semi-colon punctuation mark was replaced with a period punctuation mark because subsection (c)(4) is the last of a list of requirements set forth in subsection (c).

**Subsection (d)** Current subsection 17351(d) is moved to proposed subsection 17351(f) and amended.

Proposed subsection 17351(d) is moved from current subsection 17351(c) and amended to add the sentence: “The water supply shall be arranged such that any part of the storage yard can be reached by using not more than 500 feet of hose” to conform to 24 CCR section 3408.1.

Please note that the original (d) that had been stricken out during the rulemaking was inadvertently left out of the proposed text attached to the Request for Adoption. That stricken-out (d) has been reinserted into the proposed final regulation text to avoid confusion, and is for clerical purposes only without legal affect.

**Subsection (e)** Proposed subsection 17351(e) is added to conform with 24 CCR sections 3404.1 through 3404.4 which set forth prohibitions against open burning, engaging in certain fire activities within 40 feet of waste tires, smoking outside of designated areas, and storage of tire piles beneath power lines having a voltage in excess of 750 volts or that supply power to fire emergency systems.

**Subsection (f)** Proposed subsection 17351(f) is moved from current subsection 17351(d) and amended to: replace reference to “subsections (b) and (c)” with “subsections (a) through (e) above” because new subsections are proposed in this section that need to be included in this reference., replace the term “Board” with “Department” pursuant to PRC section 40400, and replace the term “renewal” with the term “review” for consistency with proposed section 18426.

The “Authority cited” note at the end of current section 17351 is amended to add PRC section numbers 42821 and 42832 because those sections of the PRC provide authority to the Department to include regulations regarding fire prevention measures for waste tire facilities and solid waste facilities that store, stockpile, or accumulate 500 or more waste tires.

## **Section 17352 – Facility Access and Security**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

**Subsection (a)** Current subsection 17352(a) is amended. The word “for” is capitalized for correct grammar. The phrase “waste tire” is added to clarify that “facilities” means a waste tire facility as defined in PRC section 42808 and proposed section 17225.850. The phrase “and solid waste facilities” is added to make clear that this provision applies to solid waste facilities. Current regulations apply to “facilities,” which includes waste tire facilities and solid waste facilities; this new phrasing merely clarifies this inclusion.

**Subsection (b)** Current subsection 17352(b) is amended. The phrase “waste tire” is added to clarify that “facility” means a waste tire facility as defined in PRC section 42808 and proposed section 17225.850. The phrase “and solid waste facility” is added to make clear that this provision applies to solid waste facilities. Current regulations apply to a “facility,” which includes a waste tire facility and a solid waste facility; this new phrasing merely clarifies this inclusion.

**Subsection (c)** Current subsection 17352(c) is amended. The phrase “waste tire” is added to clarify that “facility” means a waste tire facility as defined in PRC section 42808 and proposed section 17225.850. The phrase “and solid waste facility” is added

to make clear that this provision applies to solid waste facilities. Current regulations apply to a “facility,” which includes a waste tire facility and a solid waste facility; this new phrasing merely clarifies this inclusion.

Additionally, the word “must” is replaced with “shall” where it appears in this subsection. The term “fire apparatus” is added to conform with 24 CCR section 3406.1.

## **Section 17353 – Vector Control Measures**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

**Subsection (a)(2)** Current subsection 17353(a)(2) is amended to replace the term “Board” with “Department” pursuant to PRC section 40400. The word “renewal” is replaced with “review” for consistency with proposed section 18426. An underline has been added for the word “review” since the end of the final comment period. This underline should have been added at the time “renewal” was removed, to denote that this word was added. However, the word “review” has appeared in every version of the text since the initial comment period began, so addition of the underline does not have a regulatory impact.

## **Section 17354 – Storage of Waste Tires Outdoors**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Current section 17354 is amended to add applicable 2013 CFC requirements, and delete waste tire storage requirements based on: 1) 1993 CFC, and 2) NFPA publication 231D 1989. The proposed regulation restates, and incorporates by reference, 2013 CFC sections 3405.1 through 3405.9 because those specific sections of the 2013 CFC set forth standards for the storage of waste tires outdoors. Text proposed throughout this section, as described below, is directly from these referenced sections of the 2013 CFC.

Except for subsection (b) the proposed subsections of 17354 are added or amended to incorporate by reference or restate the text set forth in the 2013 CFC. As discussed earlier, the addition of this text to the proposed text is necessary to ensure that Department stakeholders are not confused as to what requirements they must follow, and to ensure that those requirements are easy for stakeholders to locate. This reference or restatement is further necessary to ensure consistent enforcement. There can be no doubt which standards the Department intends to apply to stakeholders since those specific requirements are proposed in the Department’s regulations.

**Subsection (a)** Current subsection 17354(a) is amended to ensure consistency with 2013 CFC.

The phrase “Except as provided in subsection (c)” is deleted because it is unnecessary. Subsection (c) has been amended, and proposed subsection (c) no longer applies in this context. The phrase “stored outdoors” has been added to make clear that this subsection only applies to those waste tires being stored outdoors.

The phrase requiring that waste tires stored outdoors “be stored as prescribed in the subsections below, and pursuant to the California Fire Code, Title 24 of the California Code of Regulations, sections 3405.1 through 3405.9, which are hereby incorporated by reference,” was added, because those specific sections of the 2013 CFC set forth standards the storage of waste tires outdoors. Text proposed throughout this section is directly from these referenced sections of the 2013 CFC.

The current text requiring that waste tires “be restricted to individual piles, which include stacks and racks of tires that do not exceed 5,000 square feet of contiguous area. Any pile shall not exceed 50,000 cubic feet in volume nor 10 feet in height. Piles shall not exceed 6 feet in height when within 20 feet of any property line or perimeter fencing. Waste tires shall not be located within 10 feet of any property line or perimeter fencing. The minimum distance between waste tire piles and between waste tire piles and structures that are located either on-site or off-site shall be as specified in Table I” is deleted from this subsection. The most recent version of these standards is set forth individually in the subsequent subsections.

As required by PRC sections 42820 and 42830, the Department consulted with the State Fire Marshal to develop this proposed regulation.

Additionally, a space has been added between “3405.1” and “through” in the third line, since the last comment period ended. This edit is for clerical purposes only and has no regulatory impact.

**Subsection (b)** Current subsection 17354(b) is moved to proposed subsection 17354(f) and amended, because it contains outdated information from the 1993 CFC and NFPA publication 231D 1989. Outdoor storage requirements in current subsection 17354(b) are addressed in 2013 CFC subsections 3405.1 through 3405.9, which are incorporated by reference in proposed subsection 17354(a).

Proposed subsection 17354(b) is moved from current subsection 17354(c) and amended. The phrase “subsections (a) and (b)” is changed to “subsections (c) through

(j) below” since current subsection 17354(b) is deleted and the provisions incorporated therein are now listed in subsections (c) through (j), and the change is needed to accurately refer to the applicable subsections. The term “Board” is replaced with “Department” pursuant to PRC section 40400. “Renewal” is replaced with “review” for consistency with proposed section 18426.

**Subsection (c)** Current subsection 17354(c) is moved to proposed subsection 17354(b) and amended.

Proposed subsection 17354(c) is added to conform with 24 CCR section 3405.1 which sets forth requirements for outdoor tire storage requirements, regarding arrangement and dimensions of waste tire piles.

**Subsection (d)** Current subsection 17354(d) is deleted because it contains outdated waste tire storage requirements from 1993 CFC.

Proposed subsection 17354(d) is added to conform with 24 CCR section 3405.4 which sets forth requirements for outdoor tire storage regarding tire pile side slope and proximity to lot lines, buildings and perimeter fencing, where a tire pile contains less than 500 waste tires.

**Subsection (e)** Current subsection 17354(e) is deleted because it contains outdated waste tire storage requirements from 1993 CFC.

Proposed subsection 17354(e) is added to conform with 24 CCR section 3405.4 which sets forth requirements for outdoor waste tire storage regarding waste tire pile side slopes and proximity to lot lines, buildings and perimeter fencing, where a waste tire pile contains 500 or more waste tires. These requirements are taken directly from Title 24 of the CCR section 3405.4.

**Subsection (e)(1)** Proposed subsection 17354(e)(1) is added to clarify proposed subsection 17354(e) by specifying when a waste tire pile at an exempt or excluded waste tire facility may be located within 50 feet but no closer than 10 feet from lot lines or from buildings.

**Subsection (e)(2)** Proposed subsection 17354(e)(2) is added to clarify proposed subsection 17354(e) by specifying when a waste tire pile at a permitted minor waste tire facility may be located closer than 50 feet from lot lines and 50 feet from buildings.

**Subsection (e)(3)** Proposed subsection 17354(e)(3) is added to clarify proposed subsection 17354(e) by specifying when a waste tire pile at a pre-January 1, 2011 permitted minor waste tire facility may be located closer than 50 feet but no closer than 10 feet from lot lines and 50 feet from buildings.

**Subsection (e)(4)** Proposed subsection 17354(e)(4) is added to clarify proposed subsection 17354(e) by specifying that no waste tire pile identified in proposed subsections 17354(e) through 17354(e)(3) shall exceed 6 feet in height when within 20 feet of any lot line or perimeter fencing, and side slopes shall not exceed 60 degrees.

**Subsection (f)** Current subsection 17354(f) is deleted because it contains outdated waste tire storage requirements from 1993 CFC.

Proposed subsection 17354(f) is moved from current subsection (b) and amended to conform with 24 CCR sections 3405.2, 3405.3, and 3405.5 which set forth requirements for outdoor waste tire storage regarding a minimum 40-foot separation distance between a waste tire pile and any other waste tire pile, combustible ground vegetation, stored used tires, waste tire material, or products made from tires.

**Subsection (g)** Current subsection 17354(g) is moved to proposed subsection 17354(i) and amended.

Proposed subsection 17354(g) is moved from current section 17354(f) and amended to conform to 24 CCR section 3405.7. Current section 17354(f) requires new waste tire facilities to not be located in an area that may be subjected to immersion in water during a 100-year storm unless the operator demonstrates to the Department that the facility will be designed and operated so as to prevent waste tires from migrating off site. However, this text was amended to conform with the current requirements set forth in the 24 CCR section 3405.7 that waste tire piles not be located under bridges, elevated trestles, elevated roadways, or stored in an area where they may be subjected to immersion in storm water, or that the waste tire or solid waste facility be designed and operated to prevent waste tires from migrating off-site.

**Subsection (h)** Current subsection 17354(h) is moved to proposed subsection 17354(j) and amended.

Proposed subsection 17354(h) is added to conform to 24 CCR section 3405.6 which sets forth requirements for outdoor waste tire storage regarding a waste tire facility or solid waste facility storing more than 150,000 cubic feet of waste tires.

**Subsection (i)** Proposed subsection 17354(i) is moved from current section 17354(g) and amended to conform with 24 CCR section 3405.8. The word “facility” is amended to “waste tire facility or solid waste facility” to clarify that this requirement applies to both of those types of facilities. Additionally, the sentence, “Tires temporarily attached to rims awaiting removal shall be stored separate from other waste tires,” is added because that requirement is specified in 24 CCR section 3405.8.

**Subsection (j)** Proposed subsection 17354(j) is moved from current subsection 17354(h) and amended to conform with 24 CCR section 3405.9. The word “site” was amended to “waste tire facility or solid waste facility” to clarify the types of facilities to which this requirement applies.

## **Section 17355 – Disposal of Waste Tires at Solid Waste Facilities**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

The current section 17355 title is amended to add the word “Disposal” to describe Solid Waste Facilities,” to make clear this section only applies to facilities that meet the specific definition of a “solid waste disposal facility.”

**Subsection (a)** Current subsection 17355(a) is amended to replace the phrase “the EA” with “solid waste Enforcement Agency” to clarify that appropriate enforcement agency for this requirement is the solid waste enforcement agency, not a tire enforcement agency. Also, the term “Board” was replaced with the term “Department” pursuant to PRC section 40400.

**Subsection (b)** Current subsection 17355(b) is amended to replace a semicolon with a period, and delete the conjunction “or,” to correct grammar.

**Subsection (c)** Current subsection 17355(c) is amended to add the word “disposal” again to clarify that the requirement set forth in this subsection only applies to solid waste disposal facilities and not all solid waste facilities.

## Section 17356 – Indoor Storage

### SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

The current section 17356 title is replaced with “Storage of Waste Tires Indoors” for clarity and consistency with the title for current section 17354.

Current section 17356 is amended to delete reference to outdated indoor waste tire storage requirements from 1993 CFC and 1989 NFPA publication 231D, *The Standard for Storage of Rubber Tires*. These proposed changes are necessary to improve clarity and to ensure that the regulated community as well as any authorized representative of the Department pursuing enforcement actions are aware of the requirements for storing waste tires indoors.

Current section 17356 consists of three sentences in one paragraph. Proposed section 17356 reorganizes this information to improve clarity in proposed subsections 17356(a), through 17356(c) as described below.

**Subsection (a)** Proposed subsection 17356(a) amends the first sentence in current section 17356. The term “must” is replaced with “shall” for consistency with the proposed regulations.

After the word “stored” the remainder of this first sentence of current section 17356 is deleted because it refers to outdated NFPA publication 231D 1989 and is replaced with the phrase “in the manner prescribed in the subsections below, and pursuant to the California Fire Code, Title 24 of the California Code of Regulations, sections 3201.1 through 3210.1, 3403.1 through 3403.4 and 3409.1, which are hereby incorporated by reference.” These two references are necessary to clarify that a waste tire facility storing waste tires indoors shall comply with current applicable 2013 CFC sections, and with proposed section 17356. The specific references are added because those are the portions of the 2013 CFC that set forth requirements for the indoor storage of waste tires.

Proposed text in the subsections below is directly from sections of the 2013 CFC. The proposed text described below is necessary to ensure awareness and avoid confusion for the regulated community and representatives of the Department regarding the storage standards for waste tires stored indoors.

**Subsection (a)(1)** Proposed subsection 17356(a)(1) is added to conform to 24 CCR section 3409.1, which limits indoor waste tire storage adjacent to or along one wall to extend no more than 25 feet.

**Subsection (a)(2)** Proposed subsection 17356(a)(2) is added to conform to 24 CCR section 3206.2, which limits an indoor waste tire pile dimension, or a side-by-side on-tread waste tire row length, to 50 feet, and 3409.1 which states storage requirements for waste tire stored on-tread.

**Subsection (a)(3)** Proposed subsection 17356(a)(3) is added to conform to 24 CCR section 315, which prohibits indoor waste tire storage in exits or enclosures for stairways or ramps, or in boiler rooms, mechanical rooms, or electrical rooms. While 24 CCR section 315 is not listed above in subsection (a) as being incorporated by reference, it is a requirement for indoor storage, as a provision for general storage of combustible material in accordance with Chapter 3 of Title 24, pursuant to 24 CCR section 3201.1 which is incorporated by reference.

**Subsection (a)(4)** Proposed subsection 17356(a)(4) is added to conform to 24 CCR section 315, which prohibits indoor waste tire storage within 2 feet of a ceiling in a nonsprinklered area. While 24 CCR section 315 is not listed above in subsection (a) as being incorporated by reference, it is a requirement for indoor storage, as a provision for general storage of combustible material in accordance with Chapter 3 of Title 24, pursuant to 24 CCR section 3201.1 which is incorporated by reference.

**Subsection (a)(5)** Proposed subsection 17356(a)(5) is added to conform to 24 CCR section 315, which limits indoor waste tire storage within 18 inches below a sprinkler head deflector. While 24 CCR section 315 is not listed above in subsection (a) as being incorporated by reference, it is a requirement for indoor storage, as a provision for general storage of combustible material in accordance with Chapter 3 of Title 24, pursuant to 24 CCR section 3201.1 which is incorporated by reference.

**Subsection (a)(6)** Proposed subsection 17356(a)(6) is added to conform to 24 CCR section 3206.9, for waste tire facilities or solid waste facilities with an indoor storage area between 500 to 2,500 square-foot only requiring them to maintain aisles with access to exits and fire access doors as specified further in proposed subsections 17356(a)(6)(A) through 17356(a)(6)(C).

**Subsection (a)(6)(A)** Proposed subsection 17356(a)(6)(A) is added to clarify subsection 17356(a)(6) and conform to 24 CCR section 3206.9.1.1 by requiring a minimum 44-inch aisle width in a sprinklered building.

**Subsection (a)(6)(B)** Proposed subsection 17356(a)(6)(B) is added to clarify subsection 17356(a)(6) and conform to 24 CCR section 3206.9.1.2 by requiring a minimum 96-inch aisle width in a nonsprinklered building.

**Subsection (a)(6)(C)** Proposed subsection 17356(a)(6)(C) is added to clarify subsection 17356(a)(6) and conform to 24 CCR section 3206.9.2 by requiring minimum aisle widths specified in proposed subsections 17356(a)(6)(A) and 17356(a)(6)(B) to extend from floor to ceiling.

**Subsection (a)(7)** Proposed subsection 17356(a)(7) is added to conform to 24 CCR section 3206.9, for waste tire facilities or solid waste facilities with an indoor storage area of 2,500 square-foot or greater, requiring them to maintain aisles with access to exits and fire access doors as specified in proposed subsections 17356(a)(7)(A) through 17356(a)(7)(D).

**Subsection (a)(7)(A)** Proposed subsection 17356(a)(7)(A) is added to clarify subsection 17356(a)(7) and conform to 24 CCR section 3206.9.1.1 by requiring a minimum 96-inch aisle width in a nonsprinklered building.

**Subsection (a)(7)(B)** Proposed subsection 17356(a)(7)(B) is added to clarify subsection 17356(a)(7) and to conform to 24 CCR section 3206.9.1.1 by requiring a minimum 96-inch aisle width in a sprinklered building where a waste tire pile is accessible to the public.

**Subsection (a)(7)(C)** Proposed subsection 17356(a)(7)(C) is added to clarify subsection 17356(a)(7) and to conform to 24 CCR section 3206.9.1.1 by requiring a minimum 44-inch aisle width in a sprinklered building where a waste tire pile is not accessible to the public.

**Subsection (a)(7)(D)** Proposed subsection 17356(a)(7)(D) is added to clarify subsection 17356(a)(7) and to conform to 24 CCR section 3206.9.2 by requiring minimum aisle widths specified in proposed subsection 17356(a)(7)(A) through 17356(a)(7)(C) to extend from floor to ceiling.

**Subsection (a)(8)** Proposed subsection 17356(a)(8) is added to conform to 24 CCR section 3206.2 and its corresponding Table 3206.2, by prohibiting a tire pile dimension from exceeding 50 feet in a waste tire facility or solid waste facility with a storage area of 500 square feet or less.

**Subsection (a)(9)** Proposed subsection 17356(a)(9) is added to conform to 24 CCR section 3206.2 and its corresponding Table 3206.2 by prohibiting a waste tire pile dimension from exceeding 50 feet in length or width, 30 feet in height, and 75,000 cubic feet in volume, in a waste tire facility or solid waste facility with a storage area of greater than 500 square-feet.

24 CCR Table 3206.2 sets forth three options for storage standards for high hazard commodities, of which rubber tires is a subset, for facilities with a storage area between 501 and 2,500 square feet. The first option applies to a storage area that is public accessible. The second and third option apply to storage areas that are not public accessible; however, the second option retains the same standards as those required in areas that are public accessible. The Department has chosen one option to set forth in text in order to limit confusion among operators and inspectors regarding potential storage standards. Moreover, the storage standards set forth in Table 3206.2 for a storage area of 2,500 to 500,000 square feet provide only this requirement. Thus, this one requirement applies to all waste tire facilities and solid waste facilities storing waste tires in an area greater than 500 square feet.

**Subsection (a)(10)** Proposed subsection 17356(a)(10) is added to conform to 24 CCR section 3206.2 and its corresponding Table 3206.2 which limits a waste tire facility or a solid waste facility to an indoor storage area no greater than 500,000 square feet.

**Subsection (a)(11)** Proposed subsection 17356(a)(11) is added to conform to 24 CCR section 3206.2 and its corresponding Table 3206.2. The standards set forth for a waste tire facility or a solid waste facility with a public accessible 501 square-foot or greater indoor waste tire storage area and a storage area greater than 2,500 square feet to be equipped with a specified automatic fire extinguishing system.

24 CCR Table 3206.2 sets forth three options for storage standards for high hazard commodities, of which rubber tires is a subset, for facilities with a storage area between 501 and 2,500 square feet. The first option applies to a storage area that is public accessible. The second and third option apply to storage areas that are not public accessible; however, the second option retains the same standards as those required in areas that are public accessible. The Department has chosen one option to set forth in text in order to limit confusion among operators and inspectors regarding potential storage standards. Moreover, the storage standards set forth in Table 3206.2 for a storage area of 2,500 to 500,000 square feet provide only this requirement. Thus, this one requirement applies to all waste tire facilities and solid waste facilities storing waste tires in an area greater than 500 square feet.

The proposed text further requires that this fire extinguishing system be described in the fire safety plan. Department staff and representatives serving as inspectors may not have fire expertise like the local fire code officials do. Therefore, Department staff and representatives should be able to review plans and documents to ensure the fire safety equipment and measures on sight match what is set forth in those documents. However, fire code officials are better trained and equipped at determining what type of automatic fire extinguishing system will be adequate for a particular space. Pursuant to proposed section 17351(a), the operator is required to submit the fire safety plan to the local fire authority. Requiring that the automatic fire extinguishing system be described in fire safety plan is necessary to ensure that the appropriate authority has the opportunity to review such a critical part of fire safety.

**Subsection (a)(12)** Proposed subsection 17356(a)(12) is added to conform to 24 CCR section 3206.2 and Table 3206.2 by requiring that a waste tire facility or a solid waste facility with a 2,500 square-foot or greater indoor waste tire storage area is equipped with specified smoke and heat vents.

The proposed text further requires that smoke and heat vents be described in the fire safety plan. Department staff and authorized representatives serving as inspectors may not have fire expertise like the local fire code officials do. Therefore, Department staff and authorized representatives should be able to review plans and documents to ensure the fire safety equipment and measures on sight match what is set forth in those documents. However, fire code officials are better trained and equipped at determining what smoke and heat vents will be adequate for a particular space. Pursuant to proposed section 17351(a), the operator is required to submit the fire safety plan to the local fire authority. Requiring that the smoke and heat vents be described in fire safety plan is necessary to ensure that the appropriate authority has the opportunity to review such a critical part of fire safety.

**Subsection (b)** Proposed subsection 17356(b) is added to conform to 24 CCR section 3206.3.2. by specifying that indoor waste tire storage space square footage described throughout proposed subsection 17356(a) shall be determined using the aggregate of all waste tire storage areas within a building, unless such areas are separated from each other by a 1-hour fire barrier approved by a local fire code official, and by requiring that if a 1-hour fire barrier approved by a local fire code official has an opening, the opening shall be protected by an opening protective having a 1-hour protection rating.

**Subsection (c)** Proposed subsection 17356(c) amends the second and third sentences of current section 17356, and adds a last sentence.

The second sentence of current section 17356 is amended to replace the phrase “This requirement” with “The requirements in subsections (a) and (b) above,” for consistency with the reorganization of current section 17356. The current requirements, to which “[t]his requirement” refers are now stated within the proposed text as subsections (a) and (b). Therefore, for consistency, the proposed text was amended to reflect that the language in what is now proposed subsection (c) applies to both subsections (a) and (b).

The third sentence of current section 17356 is amended to replace the term “Board” with “Department” pursuant to PRC section 40400.

The last sentence of proposed subsection 17356(c) is added to require Department concurrence, at the time of issuance or review of a waste tire facility permit, when a local fire authority approves a changed requirement or a new requirement that modifies or supplements waste tire storage and disposal standards specified in Division 7, Chapter 3, Article 5.5 of Title 14 of the California Code of Regulations for consistency and clarity. This requirement is set forth in current regulations sections 17351(f) and 17354(b). As this amended subsection sets forth the same requirements as those other two subsections, it is necessary for consistency to include this same language.

Note that “subsection (a)” appears in strike-out form in the proposed text attached to the Request for Adoption. However, that language is not in the current text and therefore should not have appeared in the proposed text. This clause is removed from the final regulation text for clerical purposes only and has not regulatory effect.

## **Section 17357 - Recordkeeping**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Proposed section 17357 is added. Pursuant to the Five-Year plan for the Waste Tire Recycling Management Program (Five-Year Plan) requirements provided in PRC section 42885.5, the Department is tasked with regulating and overseeing the movement and storage of all waste tires throughout California. Currently, the Department is authorized to inspect waste tire facilities. However, an inspection only provides a snapshot in time of waste tire movement and storage. These proposed recordkeeping requirements would provide the Department with more complete information about storage and movement of waste tires and therefore inform the Department in regards to illegal transport and dumping of waste tires. This information would assist the Department in complying with Five-Year Plan requirements, and assist the Department in implementing enforcement actions against waste tire generators, haulers, and end-use facilities in California that do not comply with these requirements.

This proposed section is also necessary to capture data about tire flow through waste tire facilities that store less than 500 waste tires at any one time, but contribute to the overall waste tire stream in California.

**Subsection (a)** Proposed subsection 17357(a) is added to require a waste tire facility to create and maintain records of all waste tire quantities received, stored, and shipped to make clear that this recordkeeping requirement is in addition to CTLs required by the Department. The phrase “a quarterly basis” is added to make clear how often a waste tire facility must update its records; this time frame is consistent with recordkeeping requirements for permitted waste tire facilities and is to make the recordkeeping less onerous than reporting within a shorter time frame. This language is necessary to clarify what type of information a waste tire facility, as that term is defined in PRC section 42808 and proposed subsection 17225.850, would need to create and maintain.

**Subsection (b)** Proposed subsection 17357(b) is added to require a waste tire facility to retain for three (3) years the records specified in proposed subsection 17357(a), and, on request of an authorized Department representative, make these records available for inspection. Proposed subsection 17357(b) is necessary to ensure that complete records are available for review by the Department. The three-year records retention requirement is consistent with requirements in current section 18447. A waste tire facility described in current sections 18103 and 18420.1 may retain these records off-site if it notifies the Department where all records are maintained; this requirement allows those waste tire facilities that might not have the storage capacity to retain records on site to maintain them in a manner that is convenient and cost-effective to the operator while still providing needed access by the Department or its authorized representatives for inspection and enforcement purposes.

## **Section 17358 – Waste Tire Transportation**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Proposed section 17358 is added to clarify and make specific PRC section 42953 which requires a person who gives, contracts, or arranges with another person to transport waste or used tires to utilize only a person holding a valid waste and used tire hauler registration issued by the Department, unless the hauler is exempt from registration, as specified in PRC section 42954. Currently, PRC section 42953 resides in Chapter 19, “Tire Hauler Registration,” while waste tire facility statutes reside in PRC Chapter 16, “Waste Tires.” The term “person” in PRC section 42953 is very broad and includes a waste tire facility and solid waste facility. Proposed section 17358 is necessary to

ensure that waste tire facilities and solid waste facilities have notice that they are required to comply with PRC section 42953.

## **Section 17359 – Tire Derived Product Handling**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Proposed section 17359 is added to clarify the PRC section 42805.7 definition of “tire derived product” (TDP) to better implement waste tire statutes in PRC section 42800 et seq.

Integrated waste management statutes, and specifically PRC section 40052, mandate reduction, recycling, and reuse of solid waste generated in the State to the maximum extent feasible in an efficient and cost-effective manner to conserve water, energy and other natural resources, and to protect the environment.

PRC section 42871 requires the Department to administer a tire recycling program that promotes and develops alternatives to landfill disposal of used whole tires.

PRC section 42873 specifies waste tire recycling activities eligible for Department funding. Some of these activities produce shredded, crumbed, or chipped waste tires, pursuant to the definition of TDP provided in PRC section 42805.7.

While stored, the fire risk of TDP is similar to that of whole waste tires. However, PRC section 42807 excludes TDP from the definition of a “waste tire.” Therefore, TDP is not required to meet SMS or be incorporated into a waste tire count in determining whether or not a waste tire facility should have a waste tire facility permit. Because shredded, crumbed, or chipped waste tire material is considered TDP only when it meets PRC section 42805.7, this proposed text is necessary to clarify when that material meets that narrow definition.

Key provisions within the PRC section 42805.7 definition of TDP require that the material be “sold” and “removed” from the processing facility before it is considered TDP. However, during waste tire facility inspections, the Department has frequently encountered operators under the misconception that waste tire material on-site at the waste tire processing facility, or waste tire material at a “holding” location owned by the waste tire facility and not sold to another entity, is TDP. This regulation is necessary to clarify the definition of TDP.

**Subsection (a)** Proposed subsection 17359(a) is added to specify that a person claiming that any material on-site is TDP shall provide the Department with documentation that the material fits the definition of TDP in PRC section 42805.7. This is necessary to ensure that the Department can determine compliance with waste tire facility permitting and storage laws and to clarify for the regulated community that if an operator does not provide appropriate documentation to the Department, the waste tire material would be considered waste tires, not TDP.

**Subsection (a)(1)** Proposed subsection 17359(a)(1) is added to ensure that the material has been legally “sold” and not simply transferred within a corporate structure to circumvent waste tire permitting and storage requirements. Proposed subsection 17359(a)(1) is necessary to advise stakeholders that, in order for the material to be considered sold, it shall be purchased from a separate and distinct waste tire facility.

**Subsection (a)(2)** Proposed subsection 17359(a)(2) is added: 1) to specify that one requirement for material to qualify as TDP is that it is being accumulated as a constituent of a particular project or application. The purpose of tire derived product is that it be used as a product and not simply stored waste tire material, hence the name “Tire Derived Product.” Therefore, this requirement is necessary to ensure the material has a purpose as a product and not just stored waste tires or material that should be accounted for as waste tires. This provision also requires that the material not be required to be further reduced in size. Where the material may be further processed to be reduced in size, that material is a feedstock, not a product. Because TDP is not subject to waste tire permitting and SMS requirements, proposed subsection 17359(a)(2) is necessary to prevent the stockpiling of waste tire material without the protection of the permitting requirements since the material , pose similar threats to public health, safety and the environment.

**Subsection (b)** Proposed subsection 17359(b) is added to ensure that waste tire material is “removed” from the facility that processed it. In past inspections, the Department has observed facilities that moved waste tire material to an adjacent site or back lot owned by the same processing facility where it accumulates without meeting SMS. When TDP that is not accounted for in permits and other Department authorizations is allowed to remain at a processing facility, or a separate location owned by the processing facility, it poses a potential threat to public health, safety and the environment. Proposed subsection 17359(b) specifies that waste tire material be removed from any property owned or operated by the processing facility before the Department would consider the waste tire material to be TDP and not be counted as waste tires for purposes of compliance with waste tire permitting and SMS.

**Subsection (c)** Proposed subsection 17359(c) is added to specify that material not meeting the requirements in proposed subsections 17359(a) and 17359(b) shall be considered waste tires. This is necessary to clarify to the regulated community that, during an inspection, material that does not meet all of the requirements set forth in subsections (a) and (b) shall be counted as waste tires and be added to the waste tire count for that facility.

**CHAPTER 6. PERMITTING OF WASTE TIRE FACILITIES AND WASTE TIRE HAULER REGISTRATION AND TIRE MANIFESTS**

**ARTICLE 1. GENERAL**

**Section 18420 - Applicability**

**SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

**Subsection (a)** Current subsection 18420(a) is amended to spell out “PRC” for clarity.

**Subsection (a)(1)** Current subsection 18420(a)(1) is amended to add the term “within the boundaries of” to describe “permitted solid waste facility” and “permitted transfer station.” This is necessary to make clear that only waste tires stored within those boundaries may be excluded from the permitting requirement; conversely, waste tires stored outside of the boundaries of a solid waste facility or transfer station would be counted as waste tires for purposes of determining whether or not a waste tire facility permit is required for that facility. This boundary distinction is necessary because permitted solid waste disposal facilities and transfer stations have environmental precautions and protections in place for the area described within the permit. Those precautions and protections do not extend beyond the boundaries of those facilities making any waste tires stored outside of boundaries a potential hazard similar to waste tires stored at any other unpermitted waste tire facility.

The subsection is further amended to delete a period after the term “disposal facility” to allow addition of “or at a permitted solid waste facility which receives less than 150 waste tires per day averaged over a 365-day period.”

Deleting the period is necessary for correct punctuation. Solid waste facility regulations clarify when a permitted solid waste facility may be excluded from a waste tire facility permit, but that requirement is not currently found in tire regulations. Adding the phrase here clarifies the requirements for when a solid waste facility needs a waste tire permit or may be required to expand its solid waste facilities permit. Also, an unnecessary

“PRC” acronym is deleted, and “of Title 14 of the California Code of Regulations” is added for clarity and consistency with the proposed regulations.

**Subsections (a)(2) through (a)(7)** No change.

**Subsection (b)** Current subsection 18420(b) is amended by deleting “PTE” to clarify the meaning of “passenger tire equivalents” by referring to its definition in current section 17225.770.

Proposed subsection 18420(b) is necessary for clarity and consistency with current section 17225.770.

**Subsection (c)** Current subsection 18420(c) is amended. The term “(Reserved)” is deleted. Language is inserted to refer to requirements for a solid waste facility that operates under a Notification Regulatory Tier per section 18103, and has 500 or more waste and used tires on-site. Although PRC section 42808 excludes certain permitted solid waste facilities from waste tire facility permitting requirements, some solid waste facilities are not covered by this exclusion.

Proposed subsection 18420(c) is necessary to ensure that waste tires at an unpermitted or Notification Regulatory Tier operation are stored in compliance with waste tire facility statutes and regulations. Waste tires stored on-site at an exempt or excluded waste tire facility or unpermitted solid waste facility have the potential to pose threats to public health, safety, and the environment that are similar to waste tires stored on-site at a permitted waste tire waste tire facility, but are not be covered by the same environmental protections that a permitted solid waste facility would have.

**Subsection (d)** No change.

**Subsection (e)** Current subsection 18420(e) is amended to: delete “used or” and replace it with “or used” for consistent use of terms; add a comma to “1500”; and delete the term “Section” and replace it with “Public Resources Code section.”

The Reference Note at the end of current subsection 18420(e) is amended to place all cited PRC sections in ascending numeric order, without regulatory effect.

## **Section 18420.1 – Waste Tire Collection Location**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Proposed section 18420.1 is added. It includes, in part, current section 17225.717. Current section 17225.717 provides operational requirements for a waste or used tire “collection” process. The purpose of collection is to allow for the temporary storage of whole waste tires or used tires before transportation to another location. Thus, no processing, shredding, chipping, crumbing, removals of rims, selling of tires or any other activity is authorized at a collection location. However, recently, a number of waste tire businesses with over 5,000 waste tires on-site have claimed to be collection locations to avoid obtaining a waste tire facility permit. Additional clarification of requirements is needed to ensure waste tire businesses that claim to be collecting waste tires are operating in a manner that protects public health, safety and the environment, and conform to manifesting and local government requirements. Proposed section 18420.1 specifies a “waste tire Collection Location” is a waste tire facility subject to department regulation.

This proposed section 18420.1 does not change the exclusion of a collection location from waste tire facility permitting requirements; however, it does clarify requirements to identify a collection location to the Department, cite a regulatory basis for its permit exclusion, describe its facility operations, and certify that it complies with all local government requirements.

Proposed section 18420.1 is necessary to inform the Department of the existence of an unpermitted waste tire facility, and to ensure that the waste tires on-site are maintained in a manner that minimizes threats to public health, safety, and the environment.

**Subsection (a)** Proposed subsection 18420.1(a) is added. It breaks down the regulations in current section 17225.717 and is necessary to clarify that waste or used tires at any of the facilities listed in subsections (a)(1) through (a)(4) cannot be considered in collection. Furthermore, it clarifies that the collection facility is to be an actual location and not a random selection of trucks parked on a street. This is necessary to isolate potential hazards associated with this activity to a particular location which CalRecycle would be aware of as well as potential other agencies, such as the fire authority. Furthermore, failure to restrict this activity to a particular location could allow facilities to circumvent the law and cause an unfair business environment.

**Subsection (a)(1)** Proposed subsection 18420.1(a)(1) is added. It includes, in part, current subsection 17225.717 and prohibits the storage of waste tires or used tires “in

collection” a permitted waste tire facility. This language is necessary to ensure that an operator of a permitted waste tire facility does not store waste tires or used tires outside of the parameters allowed by the waste tire facility permit in an effort to circumvent waste tire storage laws and permitting requirements.

**Subsection (a)(2)** Proposed subsection 18420.1(a)(2) is added. It prohibits the storage of waste tires or used tires “in collection” at a permitted solid waste facility. This language is necessary to ensure that an operator of a permitted solid waste facility does not store waste tires or used tires outside of the parameters allowed by the solid waste facility permit in an effort to circumvent solid waste requirements or waste tire storage laws and permitting requirements.

**Subsection (a)(3)** Proposed subsection 18420.1(a)(3) is added. It includes, in part, current subsection 17225.717 and prohibits the storage of waste tires and used tires “in collection” at a facility that is identified in section 18420(a) of this Article at which tire activity takes place, but is excluded from waste tire facility permitting requirements. This language is necessary to ensure that an operator of an excluded waste tire facility does not store waste tires or used tires outside of the parameters allowed by the exclusion in an effort to circumvent waste tire storage laws and permitting requirements.

**Subsection (a)(4)** Proposed subsection 18420.1(a)(4) is added. It prohibits the storage of waste tires or used tires “in collection” at an operation operating pursuant to a notification requirement prescribed by section 18103 and 18103.1 of 14 CCR. This language is necessary to ensure that an operator of such an operation does not store waste tires or used tires outside of the parameters allowed by the waste tire storage laws in an effort to circumvent those laws and permitting requirements.

**Subsection (b)** Proposed subsection 18420.1(b) is added to define the term “Collection Location.” “Collection Location” means a location on which tires are being stored in collection in accordance with subsection 18420.1(a), and includes the containers in which tires are placed and the area surrounding the containers on which tires are temporarily placed during loading, unloading, sorting, and loading.” This definition is necessary for consistency with proposed section 18420.1, and to make clear what area of a site can be included in the collection location. A collection location is excluded from permitting requirements, if the collection locations meets all the requirements set forth in proposed section 18420.1. A portion of those requirements are based on tire count and activity; therefore it is necessary to make clear the area included in a collection location so that confusion is avoided as to which tires or type of activity will be counted at the site.

**Subsection (c)** Proposed subsection 18420.1(c) is added. It replaces, in part, current subsection 17225.717 and requires that all six specific requirements be met for a collection location to be excluded from waste tire permitting requirements and for the collection location to not be subject to SMS.

**Subsection (c)(1)** Proposed subsection 18420.1(c)(1) is added. It replaces, in part, current subsection 17225.717 and requires that all waste tire and used tires onsite at a collection location be kept in closed containers except while actively unloading, sorting, or loading. This language is necessary because waste tires stored on-site at an excluded waste tire facility have the potential to pose threats to public health, safety and the environment that are similar to waste tires stored on-site at a permitted waste tire facility. Requiring that all waste tires stored at a collection location spend a minimum amount of time outside of the required locked container will minimize these threats and allow CalRecycle to enforce against violators.

**Subsection (c)(2)** Proposed subsection 18420.1(c)(2) is added. It replaces, in part, current subsection 17225.717 and requires that containers at a collection location be locked when not being unloaded, sorted, or unloaded. Because a collection location that meets these requirements is not subject to SMS, the collection location would not be required to maintain security and limit access to the site under California's waste tire regulations. Thus, this separate requirement is necessary to ensure that waste tires at a collection location are kept in a manner that minimizes the risk of improper handling and the imposition of a threat of health and safety to the public and environment.

**Subsection (c)(3)** Proposed subsection 18420.1(c)(3) is added. It requires that containers, at all times, be kept on or as part of a trailer for which a current, valid license plate has been issued by the California DMV or another entity equivalent to the DMV in another state.

This language is derived from the phrase "licensed road transportable containers" in the first sentence of current section 17225.717. Proposed subsection 18420.1(c)(3) clarifies that trailers, not containers, shall be licensed and that all containers on-site shall be on or part of a trailer, not on the ground, to be considered part of a waste tire collection location.

Proposed subsection 18420.1(c)(3) is necessary because waste tires stored on-site at an excluded waste tire facility have the potential to pose threats to public health, safety, and the environment that are similar to waste tires stored on-site at a permitted waste tire facility.

**Subsection (c)(4)** Proposed subsection 18420.1(c)(4) is added. It requires that a waste or used tire transported to or from a collection location be manifested in accordance with the waste tire hauler regulations set forth in 14 CCR. This language replaces, in part, current subsection 17225.717(3) to clarify that waste tire transport to or from a waste tire collection location shall be manifested.

Proposed subsection 18420.1(c)(4) is necessary for conformity with PRC section 42961.5 and 14 CCR Division 7, Chapter 6, Article 8.5.

**Subsection (c)(5)** Proposed subsection 18420.1(c)(5) is added. It requires that containers not remain onsite longer than 90 days. It replaces, in part, current subsection 17225.717(4).

Proposed subsection 18420.1(c)(5) is necessary to ensure that the intended purpose of a collection location is maintained, and because waste tires or used tires stored on-site at an excluded waste tire facility have the potential to pose threats to public health, safety, and the environment that are similar to waste tires or used tires stored on-site at a permitted waste tire facility. By requiring the waste tires or used tires at a collection location be kept for a finite number of days this proposed subsection minimizes the risk of that threat.

**Subsection (c)(6)** Proposed subsection 18420.1(c)(6) is added. It is added to limit the total number of waste or used tires at a collection location to a maximum of 4,999. The Department has become aware of some persons claiming to operate a collection location that: has well over 4,999 waste tires on-site, and does not have a major waste tire facility permit. PRC sections 42808 and 42823 require a waste tire facility to have a major waste tire facility permit if it stores 5,000 or more waste or used tires on-site at any time.

Proposed subsection 18420.1(a)(6) is necessary to deter non-compliance with major waste tire facility permit requirements by facilities claiming to operate a waste tire collection location, yet exceed the maximum waste or used tire limit of 4,999 at any time. Storing 5,000 or more waste or used tires at any time without a major waste tire facility permit is a potential threat to public health, safety, and the environment.

**Subsection (d)** Proposed subsection 18420.1(d) is added. This language is necessary to clarify that only whole waste or used tires shall be delivered to, temporarily placed at, or shipped from, a waste tire collection location. During past collection location inspections, the Department has observed persons claiming they are operating in compliance with current waste tire “collection” regulations, but in fact are violating these

regulations by temporarily storing altered, baled, or otherwise processed waste or used tires which is contrary to the original purpose of collection.

Proposed subsection 18420.1(d) is necessary to clarify that only whole waste or used tires that have not been altered, baled, or otherwise processed to become tire derived product or tire casings may be in “collection,” to eliminate this confusion.

**Subsection (e)** Proposed subsection 18420.1(e) is added. The California Legislature has given the Department authority over the storage of waste tires within California. However, some persons who store waste tires within California may be engaging in activity that would require compliance with a business license or permit that the Department does not have authority to grant. Therefore, this requirement is necessary to alert the regulated community that they may need other permits or licenses for the activities they are engaging in, and that the requirement for holding such a permit or license may not be met simply by complying with the requirements set forth in this section.

**Subsection (f)** Proposed subsection 18420.1(f) is added to require that a person operating a collection location shall notify the Department in writing: 1) before commencing operations specifying that it is excluded from waste tire facility permit requirements, and 2) within thirty (30) days from the date of a change to the information provided to the Department, as specified in proposed section 18431.2.

The Department is responsible for regulating the handling and storage of waste tires throughout California. It needs to be aware of all locations that store or handle waste or used tires that may pose a risk to public health, safety, and the environment, because a waste tire collection location is unpermitted, there is a risk that it may operate without department knowledge and oversight.

Proposed subsection 18420.1(f) is necessary to ensure the Department is notified of these collection locations as specified in proposed section 18431.2.

**Subsection (g)** Proposed subsection 18420.1(g) is added to require a collection location owner or operator to notify the Department in writing of the intent to cease operations at least thirty (30) days prior to discontinuing operations. This requirement is consistent with section 18440 which requires a permitted waste tire facility to notify the Department prior to facility closure.

Proposed subsection 18420.1(g) is necessary to: 1) alert the Department when an on-site inspection may need to be scheduled to determine compliance with proposed subsection 18420.1(h).

**Subsection (h)** Proposed subsection 18420.1(h) is added to specify that a person, not necessarily an owner or operator, who is responsible for discontinuing or dismantling a collection location shall comply with all applicable waste tire laws and regulations and notify the Department in writing when closure activity is complete.

Waste tires left at a closed or abandoned site would pose a threat to public health, safety and the environment. Therefore, this language is necessary to ensure that all waste tire material on-site is removed and taken to a facility that has precautions in place to protect the health and safety of the public and environment, and that the Department is notified of the closure so that it can verify all waste tire material has been removed. This language is consistent with current section 18441 that requires a permitted waste tire facility to notify the Department that it has ceased operations and that all waste tires on-site have been properly recycled or disposed.

## **ARTICLE 2. REVIEW OF PERMIT APPLICATIONS**

### **Section 18423 – Filing of Application**

#### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

The current section title is changed from “Filing of Application” to “Permit Application Filing.” This change is necessary because, in addition to requiring specified waste tire facility operators to apply for a minor or major waste tire facility permit, the Department is proposing to require specified waste tire facility operators to apply for other types of authorization and/or approval. For example, proposed 14 CCR section 18431.1 requires any person wishing to operate an exempt waste tire facility to first file for a permit exemption with the Department.

The current section is amended. It eliminates the requirement that an existing permitted major or minor waste tire facility shall submit an application every five years consistent with current section 18426. Proposed section 18426 allows permit review and certification, or a permit revision application, every five years, depending on changes at the waste tire facility and eliminates the expiration of a permit.

**Subsection (a)** Current subsection 18423(a) is amended. The phrase “or existing” is deleted, “Department” replaces “Board”, the phrase “original and two (2) copies of the” is deleted, and the words “and correct” is added to “complete” to describe the state an application must be in when it is filed. Deletion of the phrase “or existing” is necessary because proposed subsection 18426(b) allows an operator to submit a certification or permit revision application in lieu of a completed waste tire facility permit renewal application as required by current regulations. The Department no longer has a need for the applicant to submit an “original and two (2) copies,” so this phrase is deleted. “Complete and correct” is defined in proposed subsection 18423(d). This is necessary to ensure that the Department has all of the information it needs in order to correctly evaluate an application.

**Subsection (b)** Current subsection 18423(b) is amended to replace “Board” with “Department.” The words “and correct” is added to “complete” to describe the state an application must be in to be accepted for review by the Department. This is necessary to ensure the Department has parameters by which to assess whether or not to review a permit application. The term “complete and correct” is defined in proposed section 18423(d).

**Subsection (c)** Proposed subsection 18423(c) is added. It is moved from current section and 18427(c) and amended, because its subject matter is more applicable to an operator filing a permit application. This subsection allows an applicant to withdraw an application or certification at any time, unless the Department had requested an application for revision. This subsection further specified that an applicant must submit a written request to the Department if the applicant wishes to withdraw the application. This is necessary to ensure that an applicant has an avenue by which to withdraw an application if the applicant so chooses, while still ensuring that any necessary permit revisions required by the Department take place.

**Subsection (d)** Proposed subsection 18423(d) is added to define the term “Complete and Correct.” This term has been added throughout the proposed text to describe the state an application must be in for the Department to make its determination to grant or deny an application.

## **Section 18424 – Amendments to Application**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

The current section title is changed from “Amendments to Application” to “Permit Application Amendment.” This is necessary for clarity and consistency with the proposed regulations. A period is added at the end of the proposed section 18424 title.

**Subsection (a)** Current subsection 18424(a) is amended. “Department” replaces “Board” pursuant to PRC section 40400.

**Subsection (b)** Current subsection 18424(b) is amended. “Department” replaces “Board” pursuant to PRC section 40400.

## **ARTICLE 3. PERMIT ISSUANCE, RENEWAL, REVISION, REVOCATION, DENIAL, SUSPENSION, REINSTATEMENT, CHANGE OF OWNER, OPERATOR, AND/OR ADDRESS**

The current Article title is changed from “Permit Issuance, Renewal, Revision, Revocation, Denial, Suspension, Reinstatement, Change of Owner, Operator, and/or Address” to “Permit Issuance, Review, Revision, Revocation, Denial, Suspension, Reinstatement, Change of Owner, Operator, and/or Address.” This change is necessary for consistency with the proposed 14 CCR section 18426 title change from “Permit Renewal” to “Permit Review.”

## **Section 18425 – Permit Issuance**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

**Subsection (a)** Current subsection 18425(a) is amended. “Department” replaces “Board” pursuant to PRC section 40400. The words “and correct” is added to “complete” and is necessary to describe the state an application must be in to be accepted for review by the Department. The term “complete and correct” is defined in proposed section 18423(d).

**Subsection (b)** Current subsection 18425(b) is amended. “Department” replaces “Board” pursuant to PRC section 40400. The words “this Chapter” are replaced with “applicable sections of the Public Resources Code and the California Code of

Regulations.” “This Chapter” to which the current regulations refer does not include all of the statutory and regulatory provisions to which a permitted waste tire facility is subject. Thus, this change is necessary to ensure the Department can include all necessary conditions that are set forth in the Public Resources Code and the California Code of Regulations.

**Subsection (c)** Current subsection 18425(c) is amended. “Department” replaces “Board” pursuant to PRC section 40400.

**Subsection (d)** Current subsection 18425(d) is amended. “Department” replaces “Board” pursuant to PRC section 40400. The word “must” is replaced with “shall”, and “PRC” is spelled out as “Public Resources Code” for consistent use of terms throughout the proposed regulations. The words “and correct” is added to “complete” to describe the state an application must be in to be accepted for review by the Department, which starts the time for review prescribed by this section. The term “complete and correct” is defined in proposed section 18423(d).

**Subsection (e)** Current subsection 18425(e) is amended. “Department” replaces “Board” pursuant to PRC section 40400.

Reference: is amended to delete the dash between the numbers “65920-65961” and replace the dash with the word “through” for clarity.

## **Section 18426 – Permit Review**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

The current section 18426 title is amended to read “Permit Review.” The term “Review” replaces the term “Renewal” to conform to the proposed regulation.

The current section requires a waste tire facility permit to expire five years after issuance. Therefore, a waste tire facility operator is currently required to reapply every five years for a new waste tire facility permit by submitting a complete permit application. The proposed section removes the requirement for expiration of the waste tire facility permit and submittal of a new permit application for a new permit. Instead, it allows a waste tire facility operator two added permitting options at the time of permit review: to submit either a (1) certification that the facility operations continue to conform to the terms of the current permit, or (2) a permit revision application that only identifies proposed changes at the waste tire facility to update those aspects of its waste tire

facility permit. The proposed section is necessary because it is unreasonable to require an operator to file a completely new permit application and have to obtain a new permit if information in the current waste tire facility permit is up to date and continues to reflect the waste tire facility's current operations. The proposed changes are consistent with permit review processes used by the Department for solid waste facility permits.

The proposed section also changes the deadline for the waste tire facility to take action regarding their waste tire facility permit to "180 days prior to five years from the date the Department last issued, or approved a revision, or reviewed a certification of the permit," from the current deadline of 395 days prior to the permit expiration date. This change is necessary because it may not be practical for a waste tire facility operator to forecast a waste tire facility permit information change at least 395 days in advance.

The current section 18426 is deleted and the information reorganized for clarity, non-duplication, and consistency with proposed section 18426 as follows:

**Subsection (a)** Proposed subsection 18426(a) is added. It replaces current subsection (a) and clarifies that a permittee shall provide documentation to the Department at least once every five years. This is necessary to ensure that the permit conditions are still relevant to current operations at the site so that a permittee is continuing to operate in accordance with the information in the current permit. The five year timeframe is consistent with current regulations that require a permittee to submit a renewal application every five years. The proposed changes are consistent with permit review processes used by the Department for solid waste facility permits.

**Subsection (a)(1)** Proposed subsection 18426(a)(1) specifies that a waste tire facility operator may submit to the Department a certification attesting to the fact that information in the existing waste tire facility permit continues to reflect current operations. In many instances a waste tire facility continues to operate in the same manner described in its original permit application. This proposed subsection allows a waste tire facility operator, not proposing to make a change in the waste tire facility design or operation, to certify the waste tire facility permit and continue to operate under the waste tire facility operator's current waste tire facility permit without submitting a new permit application. The proposed changes are consistent with permit review processes used by the Department for other solid waste facility permits. The proposed text further clarifies that the waste tire facility operator may submit the certification in the form of a letter. This is necessary to minimize the burden on the operator who is still operating in accordance with the waste tire facility permit currently on file. A permit certification application does not apply if any changes to an existing waste tire facility permit are proposed.

This proposed subsection also specifies that the letter of certification shall be signed under penalty of perjury. This is necessary to ensure that the person submitting the permit certification has carefully reviewed all aspects of the waste tire facility certification and that the Department is receiving true and accurate information on which to base its decision to accept the certification or require the permittee to submit a waste tire facility application revision. The Department will recognize electronic submittals as a governing legal document.

**Subsection (a)(2)** Proposed subsection 18426(a)(2) is consistent with proposed 14 CCR section 18427 and applies to permitted waste tire facilities whose operations have changed from those in the original permit application. These waste tire facilities do not qualify for a permit review certification under proposed subsection (a)(1), and are required to submit documentation of the specific changes but do not have to submit an entire renewal permit application. This proposed subsection is necessary to create a more efficient way for a permitted waste tire facility to keep a waste tire facility permit up-to-date and facilitate more efficient Department review of these changes.

**Subsection (b)** Proposed subsection 18426(b) specifies that a review is required every five years. The five year review requirement ensures oversight of the facility operations.

This proposed subsection also reduces the minimum application submittal period from 395 days to a proposed 180 days prior to five years from the date the Department last issued, approved a revision, or reviewed a certification of the permit. The proposed changes are consistent with permit review processes used by the Department for solid waste facility permits.

**Subsection (c)** Proposed subsection 18426(c) allows waste tire facilities that have a valid waste tire facility permit under the current regulations, and whose permit is set to expire, to follow the simplified process outlined in proposed subsections (a) and (b) instead of submitting a permit renewal application. This proposed subsection is necessary to integrate the existing waste tire facility permit renewal process into the proposed permit review process specified in subsections (a)(1) and (a)(2) above. It also clarifies that all permitted waste tire facilities operating under an existing permit may qualify for the simplified process, and allows the Department to treat all waste tire facilities with a valid waste tire facility permit equally.

**Subsection (d)** Proposed subsection 18426(d) is necessary to account for situations in which a waste tire facility submits a review certification stating that the operations continue to comply with the terms of the existing waste tire facility permit, and the

Department determines that the operations do not comply with the terms in the existing waste tire facility permit. This language clarifies procedures to be followed in that instance.

**Subsection (d)(1)** Proposed subsection 18426(d)(1) specifies that the Department shall notify the waste tire facility, within 30 days of receipt of the review certification, that the certification is not adequate. This is necessary to ensure that a waste tire facility is notified promptly that further supporting documentation is required to ensure that a waste tire facility does not continue to operate in a manner not authorized by the Department.

**Subsection (d)(2)** Proposed subsection 18426(d)(2) specifies that, if the Department determines that a certification is not adequate or does not reflect the current operation of the waste tire facility, the waste tire facility operator will be required to submit a permit revision application. This is necessary to ensure that changes in the operations of a waste tire facility are reflected in the current waste tire facility permit, and to ensure that those operational changes are brought to the attention of the Department so that the Department can monitor and oversee enforcement of the permitted waste tire facility.

The “Reference” note at the end of current section 18426 is amended to add PRC section 42843 because section 42843 provides requirements for the revocation, suspension, or denial, of a waste tire facility permit, and add a comma after the phrase “Public Resources Code” for grammatical purposes only.

## **Section 18427 – Permit Revision**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

The current section is amended. The proposed section specifies required waste tire facility permit revision documents, when and how a permittee may withdraw a permit revision application, and requires the Department to notify an applicant within 30 days if an administrative change as specified in proposed subsection (e) requires a waste tire facility permit revision.

Reference to CIWMB is updated pursuant to PRC section 40400.

**Subsection (a)** Current subsection 18427(a) is amended. Parts of the proposed subsection correct grammatical errors and improve clarity. Specifically, in the first paragraph, first sentence, “Any ...” is replaced with “If a ...”, and “...proposing...” is replaced with “...proposes....” In the first paragraph the second sentence is revised to

add sections “..., 18431, 18432, 18433, and 18434”, delete “of” and add the phrase “of this Chapter.” During the rulemaking process, the term requiring that a substantial change in the design or operation of the waste tire facility requires the operator to apply for a revision was deleted. However, based on internal comments received during the rulemaking process, this provision was added back in. This is necessary to ensure that operators of a waste tire facility are not submitting new revision applications for every minor change made to the operations of a waste tire facility. Subsections 18427(c) and (d) still allow the Department to require changes the Department deems necessary, even if the changes seem minor the operator. The addition of sections 18431, 18432, 18433 and 18434 are necessary to list all applicable sections that should be considered when submitting an application for a permit revision.

The second paragraph is amended to clarify that the Department is required to process a permit revision application in the same manner it would process a new waste tire facility permit application to ensure consistency in the permit review process for all new and revised permits.

**Subsection (b)** Current subsection 18427(b) is amended. The term “Department” replaces “Board” pursuant to PRC 40400, “a” replaces “the,” and “a” replaces “an.” The phrase “permit revision...” is inserted, and the phrase “...for revision...” is deleted. The proposed 180-day deadline for submittal of waste tire facility permit review applications has proven to be reasonable, and is consistent with solid waste facility permit review deadlines used by the Department. These changes are necessary for clarity and consistency with the proposed regulations.

**Subsection (c)** Current subsection 18427(c) is deleted and moved to Section 18423(c).

Proposed subsection 18427(c) is added to specify the type of documentation that would have to be submitted to the Department in order to apply for a permit revision, The proposed subsection also specifies such documentation is associated with proposed sections 18431, 18432, and 18433, and current section 18434, but would not include documentation required by proposed sections 18431.1, 18431.2, and 18431.3.

This proposed text further clarifies that an operator submitting a permit revision application only needs to submit the permitting documents provided in proposed sections 18431, 18432, 18433, and current section 18434, that actually reflect the changes in the operations on-site instead of a complete application package. This text is necessary to minimize the burden on an operator submitting a permit revision application to the Department and to allow for a more efficient review process by the Department.

**Subsection (d)** Current subsection 18427(d) is amended. The term “Board” is replaced with “Department” pursuant to PRC 40400. The first sentence phrase “each administrative change” is replaced with “a waste tire facility’s administrative change” to make clear this subsection applies to waste tire facilities. The second sentence phrase “Administrative changes shall include but are not limited to, changes” is replaced with “An administrative change shall include but is not limited to, change” for grammatical reasons only with no legal significance.

**Subsection (e)** Current subsection 18427(e) is amended. The text of current subsection “(e)” is deleted and replaced with “If the Department determines that a waste tire facility administrative change requires a permit revision, it shall notify the applicant in writing within thirty (30) days of receipt of the administrative change notice.”

This proposed text removes current language requiring the Department to review the application for completeness and determine which changes to the application are relevant. Proposed subsection 18427(a) requires the Department to act in accordance with proposed section 18423 which places a 30-day timeframe on determining completeness. Removal of this language is necessary to avoid unnecessary duplication.

**Subsection (f)** Proposed subsection 18427(f) is added. The proposed subsection authorizes the Department to require a waste tire facility operator to submit a permit revision application if the Department, at any time, finds that the waste tire facility operations no longer conform to the current waste tire facility permit on file with the Department. This language is necessary to ensure that the waste tire facility continues to operate in a manner authorized by the Department.

The “Reference” note at the end of current section 18427 is amended to add a comma after the phrase “Public Resources Code” for ease of use.

## **Section 18428 – Change of Owner, Operator, and/or Address**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Current section 18428 is reorganized into proposed subsections (a) and (b). Proposed subsection (a) retains and amends the current introductory paragraph, and items (1) through (4) contained in it. Proposed subsection (b) retains and amends the current last paragraph. All proposed changes are necessary for clarity and consistency with PRC.

The proposed introductory paragraph is amended and renumbered. An “(a)” is added at the beginning for clarity and consistency with other sections/subsections in this Article. Pursuant to PRC section 40400, “Department” replaces “Board.”

The four subsections in current section 18428 are amended as follows:

**Subsection (a)(1)** Current subsection 18428(a)(1) is amended. The term “Names(s), address(es)...” is changed to “Name(s) and address(es)...”; “...can...” is changed to “...may...”; the comma after “sent” is deleted; “...numbers(s)...” is changed to “...number(s)...”; and “...owner/operator” is changed to “...owner and/or operator.” These changes are made for clarity and readability without regulatory effect.

**Subsection (a)(2)** Current subsection 18428(a)(2) is amended. The term “owner/operator” is changed to “owner and/or operator” for clarity.

**Subsection (a)(3)** Current subsection 18428(a)(3) is amended. The term “owner/operator” is changed to “owner and/or operator”; the acronym “...WTFP...” is spelled out. These changes are for clarity.

**Subsection (a)(4)** Current subsection 18428(a)(4) is amended. The term “owner/operator” is changed to “owner and/or operator” for clarity.

The proposed last paragraph is amended and renumbered. A “(b)” is added at the beginning for clarity and consistency with other sections/subsections in this Article. Pursuant to PRC section 40400, “Department” replaces “Board staff.” The term “shall” replaces “will.” These changes are made for clarity and consistency with the proposed regulations.

## **ARTICLE 3.5            ENFORCEMENT CRITERIA FOR WASTE TIRE FACILITIES**

The current Article 3.5 title, “Enforcement Criteria for Waste Tire Facilities,” is amended to read “Waste Tire Facility Violations And Enforcement,” for clarity. This amended title is more descriptive than the current Article 3.5 title, and is more consistent with Article titles in Division 7, Chapters 3 and 6, that begin with the phrase “waste tire.”

Current Article 3.5 consists of section 18429, subsections (a)(1), (b)(1), and section 18430. Current subsections 18429(a)(1) and 18429(b)(1) are deleted and replaced with proposed language that provides a more complete, logical, and flexible framework to assess financial penalties for violation of waste tire facility statutes and regulations.

## **Section 18429 – Penalty Schedule for Administrative Complaints**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

The current section 18429 title is amended to read “Penalty Schedule.” The phrase “for Administrative Complaints” is deleted from the current section title for clarity.

Administrative Complaints are prepared and served on parties that are non-compliant with waste tire storage and hauler laws. Keeping the term “Administrative Complaints” in the title of this section could lead to confusion and the misunderstanding that these penalties apply to any waste tire case, which is untrue. Therefore this deletion is necessary for clarity and to avoid confusion.

Current section 18429 is organized by the status of the non-compliant entity with regard to permitting. Current subsection 18429(a)(1), including Tables 1#, 2A and 2B, addresses unpermitted waste tire facility violations. Current subsection 18429(b)(1), including current Tables 3#, 4A, 4B and 5, addresses permitted waste tire facility violations.

Penalty tables in current section 18429, in part, are difficult to follow, contain minor errors, and are redundant. For example, Tables 1# and 3# are awkwardly numbered and/or inappropriately footnoted; current subsection 18429(b)(1), Table 5, lists sixteen violation types, each preceded by a corresponding 14 CCR section number, except no 14 CCR or PRC section number precedes “Violation of any Permit conditions (except capacity violation).” Because current Tables 2A, 2B, 4A and 4B adjust a penalty amount for the same risk factors, three of these four tables are substantially redundant.

Total penalty calculation requirements in current section 18429 are difficult to determine and require more detail. For example, it is not clear in current subsections 18429(a)(1) or 18429(b)(1) that a total penalty calculation may consider prior violations by the waste tire facility operator or owner at the same or a separate location.

Current section 18429 is deleted and all of the violations and penalties from current Tables 1#, 2A, 2B, 3#, 4A, 4B, and 5 are incorporated into proposed section 18429 which is written for clarity, completeness, non-duplication, and consistency with the proposed regulations.

Additionally, the requirement in current section 18429 that penalties be calculated based on days past non-compliance with the Cleanup and Abatement Order (CAO) is removed for clarity, ease of use, and conformance with PRC section 42850 and 42850.1 which do not require non-compliance with a CAO before penalties can accrue.

CAOs are a valuable enforcement tool but can take a lengthy period of time to develop and implement. This proposed change is necessary and would provide the Department with the ability to more expeditiously address critical waste tire situations through the imposition of penalties in those instances where a swifter resolution is needed than would be possible with a CAO.

Proposed section 18429 is necessary to provide clear and concise guidance to the Department when assessing penalties for waste tire facility violations and to provide notice to the regulated community of the penalties that could possibly be levied against them for non-compliance with waste tire storage laws and regulations

**Subsection (a) Applicability:** Proposed subsection 18429(a) is added to clarify who is subject to waste tire facility penalties and what violations may result in penalties. Proposed subsection 18429(a) clarifies that any person, including but not limited to a waste tire facility owner and/or operator, who violates specified waste tire facility statutes or regulations may be liable for a penalty published in proposed section 18429.

Proposed subsection 18429(a) is necessary to clarify that Department authority to enforce waste tire facility law is not limited to specified permitted and unpermitted waste tire facilities, and extends to any person as defined in PRC section 40170.

**Subsection (b) Capacity Violations at an Unpermitted Waste Tire Facility:**

Proposed subsection 18429(b) addresses how penalties are calculated for capacity violations at an unpermitted waste tire facility. This section conforms with current section 18429(a)(1) with the exception of the removal of the requirement that a person be non-compliant with the CAO before penalties can accrue, as described above.

Proposed subsection 18429(b) is necessary to establish a process that would define penalties for violations of PRC sections 42823, 42824, 42833, 42834, and proposed section 18420(a). It refers to proposed subsection (h) penalty Table 1 and risk factor Table 2 for capacity penalties at unpermitted waste tire facilities.

**Subsection (c) Storage and Disposal Violations at Permitted and Unpermitted Waste Tire Facility:**

Proposed subsection 18429(c) addresses how penalties are calculated for a waste tire facility that violates SMS for storage and disposal of waste tires, such as fire prevention, facility access and security, vector control, outdoor storage, and indoor storage.

Proposed subsection 18429(c) is necessary to establish a process that would define penalties that apply to a waste tire facility as defined in PRC section 42808 and

proposed section 17225.850. It refers to proposed subsection (h) penalty Table 3 for storage and disposal violations at permitted and unpermitted waste tire facilities. The penalties set forth in penalty table 3 are consistent with the penalties set forth in current section 18429 penalty Table 5.

Note that “4” appears in strike-out form in the proposed text attached to the Request for Adoption. However, this entire subsection is new, and therefore the stricken-out “4” should not have appeared in the proposed text. This “4” is removed from the final regulation text for clerical purposes only and has not regulatory effect.

**Subsection (d) Capacity Violations at a Permitted Waste Tire Facility:** Proposed subsection 18429(d) addresses how penalties are calculated for capacity violations at a permitted waste tire facility. This section conforms with current section 18429(b)(1) with the exception of the removal of the requirement that a person be non-compliant with the CAO before penalties can accrue, as described above.

Proposed subsection 18429(d) is necessary to establish a process that would define penalties that apply to a permitted waste tire facility with more than the permitted maximum number of waste tires. It refers to proposed subsection (h) penalty Table 4 and risk factor Table 2 for capacity penalties at permitted waste tire facilities.

**Subsection (e) Permit Review Submittal Violations at a Permitted Waste Tire Facility:** Proposed subsection 18429(e) is added to address how financial penalties are calculated for late submission of a permit certification or revision application to the Department within 180 days after the date the permit is due for review, and to specify additional penalties if a late submission exceeds those 180 days, including: expiration of the current waste tire facility permit, a requirement to remove all on-site waste tire material in excess of 499 passenger tire equivalents, and a requirement to apply for a new waste tire facility permit before continuing to operate. This language is necessary to make clear and put the regulated community on notice that, while an operator of a waste tire facility will face penalties for not submitting the necessary information after five years, the waste tire facility permit will expire at the end of six months following the date the permit was due for review. This language is also necessary to ensure that a waste tire facility does not continue to operate at a site that does not have updated permitted documents and that therefore may not be operating in accordance with all waste tire laws and regulations.

Proposed subsection 18429(e) is necessary to establish a process that would define penalties for permitted waste tire facility violation of permit review submittal

requirements in proposed section 18426. It refers to proposed subsection (g) penalty Table 5 for permit review submittal violations by permitted waste tire facilities failing to meet proposed section 18426 deadlines.

**Subsection (f) Financial Assurance Violations at a Permitted Facility:** Proposed subsection 18429(f) is added to address how penalties are calculated for permitted major waste tire facility violations of any one or a combination of the twelve financial assurance requirements. It refers to proposed subsection 18429(h) penalty Table 6 for financial assurance violations by a permitted major waste tire facility. This section is necessary to describe the penalties set forth in proposed Penalty Table 6. Proposed Penalty Table 6 is added to make clear which sections of the CCR may cause an operator to be assessed penalties for violations. Current Table 7 includes one line-item “14 CCR 18470-18482 Financial Assurance Requirements for Closure of Major waste tire Facility \$1,000-\$10,000.” This line-item made it unclear whether a penalty could be applied for each separate violation of subsection 18470 through 18482 or if only one penalty could be applied for multiple violations. By separating the violations out in proposed Penalty Table 6 the regulations clarify that each violation would result in a separate penalty.

**Subsection (g) Other Waste Tire Facility Violations:** Proposed subsection 18429(g) is added to address how penalties are calculated for a waste tire facility with violations outside those penalties already set forth in proposed subsections 18429(a) through 18429(f). These penalties are pursuant to PRC sections 42850 and 42850.1 which allow penalties for violations of “any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to [Chapter 16 of Division 30, Part 3 of the PRC].”

Proposed subsection 18429(g) is necessary to establish a process that would define penalties that apply to waste tire facility violations other than capacity, storage and disposal, permit review submittal, or financial assurance by a permitted major waste tire facility. It refers to proposed subsection (h) penalty Table 7 for waste tire facility violations whose penalties are not specified in proposed subsection (h) penalty Tables 1 through 6.

**Subsection (g)(1)** Proposed subsection 18429(g)(1) is added to address how penalties are calculated for a waste tire facility with violations other than capacity, storage and disposal, permit review submittal, or financial assurance by a permitted major waste tire facility. Proposed subsection 18429(g)(1) specifies penalty amounts would be determined in accordance with proposed subsection (h) Table 7 and PRC section 42852.

Proposed subsection 18429(g)(1) is necessary to specify that applicable penalty amounts be determined according to PRC section 42852 criteria.

**Subsection (g)(2)** Proposed subsection 18429(g)(2) is added to address how a penalty is calculated for a waste tire facility with a violation of notification requirements specified in proposed section 18431.1, Permit Exemption, and proposed section 18431.2, Permit Exclusion. Proposed subsection 18429(g)(2) specifies penalty amounts would be determined in accordance with proposed subsection (h) Table 7.

Proposed subsection 18429(g)(2) is necessary to clarify which penalties apply to an entity that fails to provide the required notification set forth in these proposed regulations, and that the applicable penalty amounts be determined without applying PRC section 42852 criteria. This penalty is necessary to provide incentive for the regulated community to provide the required information in a timely manner so that the Department can better fulfill its obligations to protect the health and safety of the public and environment and to report to the Legislature on California tire activity as required by the Five-Year Plan.

**Subsection (h) Penalty Tables:** Proposed subsection 18429(h) is added to incorporate all information from current section 18429 penalty tables and reformat the information in a more complete, logical and efficient format.

Proposed subsection 18429(h) is necessary to provide guidance for calculating a waste tire facility penalty and to provide a more complete list of statutory and regulatory waste tire facility violations with corresponding penalty amounts or ranges.

**Table 1 – Unpermitted Waste Tire Facility: Capacity Penalties:** Table 1 of proposed subsection 18429(h) incorporates all violation types and penalty amounts in Table 1# of current subsection 18429(a).

Table 1 of proposed section 18429(h) is necessary because it specifies an accurate Table 1 title and column headings. The information is reformatted for clarity and ease of use.

**Table 2 – Risk Factors:** Table 2 of proposed subsection 18429(h) incorporates risk factors listed in Tables 2A and 2B of current subsection 18429(a), and Tables 4A and 4B of current subsection 18429(b).

Table 2 of proposed subsection 18429(h) is necessary because it specifies an accurate Table 2 title and column headings. The information is reformatted for clarity and ease of use.

**Table 3 – Waste Tire Facility: Storage and Disposal Penalties:** Table 3 of proposed subsection 18429(h) incorporates all five violation types with a corresponding penalty range from Table 5 of current subsection 18429(b) that are specific to SMS in proposed sections 17351 through 17356.

Table 3 of proposed subsection 18429(h) is necessary because it specifies an accurate Table 3 title and column headings. These violation types are moved so all facility operation SMS violations are in one place, and are reformatted for clarity and ease of use.

**Table 4 – Permitted Waste Tire Facility: Capacity Penalties:** Table 4 of proposed subsection 18429(h) incorporates all violation types and penalty amounts in Table 3# of current subsection 18429(b).

Table 4 of proposed subsection 18429(h) is necessary because it specifies an accurate Table 4 title and column headings. The information is reformatted for clarity and ease of use.

**Table 5 – Permit Review Submittal Penalties:** Table 5 of proposed subsection 18429(h) is added to define penalties that would be applicable to violations of proposed subsection 18426. These penalties are allowed under existing law, but were not included in current section 18429 penalty tables. In recent years most permitted waste tire facility renewal applications were submitted late. Under the proposed regulations, permitted waste tire facilities will be required to certify that their current operations conform to their current waste tire facility permit (proposed section 18426), or submit a permit revision application that describes changes (proposed sections 18426 and 18427). While PRC section 42835 allows minor permitted facility penalties of \$500-\$5,000 and PRC section 42825 allows major permitted facility penalties of \$1,000-\$10,000, given the history of late submittals the minimum penalties proposed in this table are double the amount in statute (i.e. \$1,000 minimum penalty for a minor permitted facility and \$2,000 for a major permitted facility.) The increase in the minimum penalties will provide an additional incentive for on-time submittals of permit certifications and revision applications and will ensure that waste tire facilities operate under terms of a current permit that has been recently reviewed by the Department and therefore would greatly reduce the possibility that the waste tire facility is operating out

of compliance with California laws and in a way that will threaten the health and safety of the public and the environment.

Table 5 of proposed subsection 18429(h) is necessary to specify penalty amounts based on the number of days a permit certification or revision application is past due, and whether or not the permitted waste tire facility has a minor or major waste tire facility permit.

**Table 6 – Permitted Major Waste Tire Facility: Financial Assurance Penalties:**

Table 6 of proposed subsection 18429(h) is added to define penalties applicable to violations by a permitted major waste tire facility of current subsections 18472 through 18482. These penalties are allowed under existing law, but are not included in current section 18429 penalty tables.

Proposed Penalty Table 6 is added to make clear which sections of the CCR may cause an operator to be assessed penalties for violations. Current Table 7 includes one line-item “14 CCR 18470-18482 Financial Assurance Requirements for Closure of Major waste tire Facility \$1,000-\$10,000.” This line-item made it unclear whether a penalty could be applied for each separate violation of subsection 18470 through 18482 or if only one penalty could be applied for multiple violations. By separating the violations out in proposed Penalty Table 6 the regulations clarify that each violation would cause a separate penalty.

Table 6 of proposed subsection 18429(h) also expands violation of “14 CCR 18470” listed in Table 5 of current section 18429(b) to include violation of current sections 18470 through 18482 that are related to financial assurance requirements for closure of a major waste tire facility. Since a major waste tire facility is likely to have more than 5,000 waste tires on site at any given time, the penalties are tied to the potential public health and safety impacts of large numbers of abandoned waste tires. Major waste tire facility operators are required to meet financial assurance requirements during the permitting process; therefore, they have knowledge of this requirement. The penalty range for violation of current sections 18470 through 18482 is consistent with PRC section 42850.1 intentional violation of tire laws.

**Table 7 – Other Waste Tire Facility Penalties:** Table 7 of proposed subsection 18429(h) is added to clarify the additional statutory and regulatory violation penalties that do not fall under the other tables in this proposed subsection.

In part, Table 7 of proposed subsection 18429(h) incorporates eleven violations types and corresponding penalty ranges from Table 5 of current section 18429(b), including:

14 CCR 18423(a), 18427, 18470, 18440(a) through 18440(e), 18443(d), and “Violation of any Permit conditions (except capacity violation).”

Table 7 of proposed subsection 18429(h) also adds the specific legal basis for the Table 5 of current subsection 18429(b) “Violation of any Permit conditions (except capacity violation),” PRC sections 42824 (direct, haul or accept waste tires at an unpermitted major waste tire facility) and 42834 (direct, haul or accept waste tires at an unpermitted minor waste tire facility), and specifies separate penalty ranges for an unpermitted major waste tire facility and an unpermitted minor waste tire facility. The penalty ranges for violation of PRC section 42824 is specified in PRC section 42825 (\$1,000 - \$10,000 per day) and violation of PRC section 42834 is specified in PRC section 42835 (\$500-\$5,000 per day). Recently, a number of unpermitted waste tire businesses have been operating with 500 or more tires, and often more than 5,000 tires on-site. Their primary business has been baling tires and loading them into shipping containers for overseas export. Including penalty amounts for directing, transporting, or accepting waste tires at unpermitted facilities in regulations will address this issue and highlights those penalties.

Table 7 of proposed subsection 18429(h) also adds violation of current section 18447 and proposed sections 18431.1 and 18431.2. The penalty range for violation of current section 18447, retention of records is consistent with PRC section 42850, negligent violation of tire laws. Proposed section 18431.1 requires an exempt waste tire facility to apply to the Department for an exemption, and proposed section 18431.2 requires an excluded waste tire facility to first notify the Department that it is excluded from permit requirements. Since an exempt or excluded waste tire facility may operate with a few tires, or more than 5,000 tires, the penalty range needs to be large enough to allow an appropriate penalty for the size of the operation and to account for violations that may be either negligent or intentional. The penalty range of \$500-\$10,000 is consistent with the penalties specified in PRC sections 42850 and 42850.1.

Table 7 of proposed subsection 18429(h) is necessary to address violations other than waste tire facility capacity, SMS, or permit review submittal by reorganizing them into a clear and concise table with corresponding penalty ranges.

Note that “6” appears in strike-out form in the title of Table 7 in the proposed text attached to the Request for Adoption. However, Table 6 does not exist in the current text, and therefore should not have appeared stricken-out in the proposed text. This “6” is removed from the final regulation text for clerical purposes only and has not regulatory effect.

**Subsection (i) Total Penalty Calculation:** This section has been renumbered from 18429(h) to 18429(i) since the closing of the last comment period; this section renumbering is a clerical change with no regulatory effect.

Proposed subsection 18429(i) is added. Proposed subsection 18429(i) includes, in part, requirements in current subsections 18429(a)(1) and 18429(b)(1). Proposed subsection 18429(i) is necessary to make the method of calculating penalties more visible and clear.

**Subsection (i)(1)** Proposed subsection 18429(i)(1) is added. It specifies that a total penalty amount shall accrue for each day of violation as provided in PRC sections 42850 and 42850.1. This language is necessary to provide notice to the regulated community of the way penalties will be calculated and is consistent with PRC section 42850 and 42850.1 that allow for penalties for each day a violation continues.

**Subsection (i)(2)** Proposed subsection 18429(i)(2) is added to identify for an unpermitted waste tire facility the maximum penalty amounts for each day of violation as specified in PRC sections 42825 and 42835, clarify that unpermitted waste tire facilities include exempt or excluded waste tire facilities as defined in proposed section 17225.822, and clarify how to calculate an exempt or excluded waste tire facility capacity violation penalty. This is necessary because, in order to calculate a penalty, the type of facility must first be determined. The PRC and current and proposed regulations authorize waste tire facility permit exemptions and exclusions if the facility does not exceed specified waste tire amounts at any time. If an exempt or excluded waste tire facility exceeds its authorized waste tire capacity limit, it is subject to a penalty.

Proposed subsection 18429(i)(2) is necessary to clarify what waste tire capacity penalty may be assessed against an “exempt or excluded” waste tire facility.

**Subsection (i)(3)** Proposed subsection 18429(i)(3) is added to specify that waste tire facility capacity penalty amounts are enhanced based on whether or not the violation is negligent or intentional, and is a repeat violation. During past inspections the Department has observed that some waste tire facility operators and/or owners would close a waste tire facility location after the Department or its authorized representative issued a notice of violation. The same waste tire facility operator and/or owner would subsequently open a similar waste tire facility at a new location, sometimes just across the street.

Proposed subsection 18429(i)(3) is necessary to clarify that a waste tire facility capacity violation applies to the waste tire facility owner and/or operator, and the violation and/or penalty record is not expunged or removed by moving a waste tire facility to a new location and that higher level penalties for repeat offenders will be assessed.

## **ARTICLE 4. PERMIT APPLICATION**

The current Article 4 title is amended from “Permit Application” to “Permit Application, Exemption, Exclusion, and Beneficial Reuse.” The proposed Article title is amended for clarity and consistency with the proposed addition of sections 18431.1, Permit Exemption, 18431.2, Permit Exclusion, and 18431.3, Beneficial Reuse Project.

### **Section 18431 - Application**

#### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

The current section is amended. The current section 18431 title is replaced with “Permit Application.” The proposed changes are necessary for clarity, consistency with updated Department form numbers and form titles, and more specific reference to “Appendix A.”

The introductory paragraph of this section is amended. The phrase “an application for renewal or” is deleted from sentence one and from sentence two, because the proposed regulations no longer require that a permittee submit a renewal application after the current permit has expired. The phrase “of an existing permit for a” is added and the word “permit” is deleted from sentence two for clarity and consistency with sentence one. To improve clarity, a comma is added after “minor waste tire facility”, and two commas are added to the sentence two phrase: “items (a) through (d) and (h) of this section.” A new sentence is added to the end of this paragraph: “An application for revision shall only include all items (a) through (h) that describe the change being made at the waste tire facility.” This is necessary because, per proposed section 18426, an applicant does not need to submit portions of the application package that will not be changing from an existing permit. To improve readability, a line space is added between the introductory paragraph and subsection (a).

**Subsection (a)** Current subsection 18431(a) is amended. The proposed subsection is amended to replace “complete” with “complete and correct for clarity, update “CIWMB 500 ‘Waste Tire Facility Permit Application’ (9/02)” to read “Waste Tire Facility Permit Application (6/14),” and clarify the parenthetical reference “See Appendix A” to read “See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.” The term complete and

correct is added for consistency with other proposed amended sections of Title 14, and is defined in section 18423(d). The reference date is updated for the Waste Tire Facility Permit Application to reflect the form that is attached hereto and incorporated herein by reference as a part of these proposed regulations.

**Subsection (b)** Current subsection 18431(b) is amended. The proposed subsection is amended to replace “complete” with “complete and correct,” to update the reference from “CIWMB” to “CalRecycle,” to clarify the parenthetical reference “See Appendix A” to read “See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A,” and to include the reference to the correct form. The term complete and correct is added for consistency with other proposed amended sections of Title 14, and is defined in section 18423(d). The reference date for the waste tire Facility Operation Plan is updated to reflect the form that is attached hereto and incorporated herein by reference as a part of these proposed regulations.

**Subsection (c)** Current subsection 18431(c) is amended. The proposed subsection is amended to replace “complete” with “complete and correct,” to update the reference from “CIWMB” to “CalRecycle”, to clarify the parenthetical reference “See Appendix A” to read “See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A” and to include the reference date for the correct form. The term complete and correct is added for consistency with other proposed amended sections of Title 14, and is defined in section 18423(d). The reference date for the Waste Tire Facility Permit Application is updated to reflect the form that is attached hereto and incorporated herein by reference as a part of these proposed regulations.

A space was added after the word “information,” after the closing of the final comment period. This space was added for clerical reasons only and has no regulatory effect.

**Subsection (d)** Current subsection 18431(d) is amended. The proposed subsection is amended to replace “complete” with “complete and correct,” to update the reference from “CIWMB” to CalRecycle,” to clarify the parenthetical reference “See Appendix A” to read “See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A,” and to include the reference date for the correct form. The term complete and correct is added for consistency with other proposed amended sections of Title 14, and is defined in section 18423(d). The reference date for the Waste Tire Facility Permit Application is updated to reflect the form that is attached hereto and incorporated herein by reference as a part of these proposed regulations.

**Subsection (e)** Current subsection 18431(e) is amended. The proposed subsection is amended to replace “complete” with “complete and correct,” to update the reference

from “CIWMB” to “CalRecycle,” to clarify the parenthetical reference “See Appendix A” to read “See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A,” and to include the reference date for the correct form. The term complete and correct is added for consistency with other proposed amended sections of Title 14, and is defined in section 18423(d). The reference date for the Waste Tire Facility Permit Application is updated to reflect the form that is attached hereto and incorporated herein by reference as a part of these proposed regulations.

**Subsection (f)** No change.

**Subsection (g)** Current subsection 18431(g) is amended. The proposed subsection is amended to clarify the parenthetical reference “See Appendix A” to read “See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.”

**Subsection (h)**. Current subsection 18431(h) is amended. The phrase “[v]erification that applicable local, state, and federal” is changed to “[a]pplicable” to modify “permits and approvals.” And the phrase “have been acquired by the applicant.” This language is amended to make clear that an applicant must submit copies of all applicable permits and approvals for property at which the proposed waste tire facility will operate as well as the type of activity the waste tire facility will engage in; the applicant cannot simply state that it is in possession of all applicable permits and approvals.

The “Reference” note at the end of current section 18431 is amended to replace a comma with a semi-colon after the phrases “Public Resources Code” and “State CEQA Guidelines” for grammatical purpose without regulatory effect.

## **Section 18431.1 – Permit Exemption**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

This proposed section is added. This proposed section is necessary because it implements, clarifies, and makes specific the requirements for those waste tire facilities that are not required to apply for a waste tire facility permit to operate by virtue of an exemption in statute or in current regulations. Whether waste tires are stored at an exempt or excluded waste tire facility or at a permitted waste tire facility, they pose similar threats to public health, safety, and the environment. This regulation is necessary to ensure that the Department is aware of these exempt waste tire facilities and to ensure that these exempt WASTE TIRE facilities are operated and maintained in a manner that meets SMS.

**Subsection (a)** Proposed subsection 18431.1(a) is added to specify that an exempt waste tire facility shall apply to the Department in writing for a permit exemption. This proposed subsection is necessary to clarify which waste tire facilities are exempt and therefore subject to the requirements in this section.

Note that “,” appears in strike-out form in the proposed text attached to the Request for Adoption. However, this section is new, and therefore the “,” does not appear in the current text. This “,” is removed from the final regulation text for clerical purposes only and has not regulatory effect.

**Subsection (a)(1)** Proposed subsection 18431.1(a)(1) is added to direct the owner and/or operator of a cement manufacturing plant exempt under PRC section 42823.5 to provide the information specified, as required in PRC section 42823.5(b), in its application for exemption.

**Subsection (a)(2)** Proposed subsection 18431.1(a)(2) is added to direct the owner and/or operator of a beneficial reuse project to provide the information specified in proposed section 18431.3 which sets forth the application requirements for a waste or used tire beneficial reuse project.

**Subsection (b)** Proposed subsection 18431.1(b) is added to specify that the owner or operator of a waste tire facility that applies for a permit exemption shall certify under penalty of perjury that the information provided in a permit exemption application is true and correct. This language is necessary to ensure that the person submitting the application for a permit exemption has carefully reviewed all aspects of the waste tire facility plans and further ensures that the Department is receiving true and accurate information on which to base its decision to issue or deny the permit exemption.

**Subsection (c)** Proposed subsection 18431.1(c) is added to specify that, for the purpose of proposed subsection 18431.1(a), the Department shall treat a handwritten, facsimile, or electronic signature as original. Electronic communication has become an increasingly common and legitimate way to submit and distribute information. This proposed subsection is necessary to specify that the Department will accept and treat an electronic document and signature as an original document.

**Subsection (d)** Proposed subsection 18431.1(d) is added to specify that thirty (30) days prior to discontinuing operations the operator or owner of an exempt waste tire facility is required to notify the Department in writing. This proposed subsection is necessary to allow the Department an opportunity to schedule an inspection of the site prior to cessation of operations. This language is consistent with 14 CCR section

18440(a) which requires a permitted waste tire facility to notify the Department that it will cease operations.

**Subsection (e)** Proposed subsection 18431.1(e) is added to specify that at the time an exempt waste tire facility discontinues operations, the person responsible (including but not limited to, the owner or operator) is required to be in compliance with all applicable waste tire laws and regulations. Also, waste tires left at a closed or abandoned site would pose a threat to public health, safety and the environment. Therefore, this language is necessary to ensure that the waste tire material on-site is removed and taken to a facility that has precautions in place to protect the health and safety of the public and environment, and that the Department is notified of the closure so that it can verify all waste tire material has been removed. This language is consistent with 14 CCR section 18441 that requires a permitted waste tire facility to notify the Department that it has ceased operations and that all waste tires on-site have been properly recycled or disposed.

### **Section 18431.2 – Permit Exclusion**

#### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

This proposed section is added. The proposed section is necessary because it implements, clarifies, and makes specific the requirements for those waste tire facilities that are not required to apply for a waste tire facility permit to operate by virtue of an exclusion. Examples of these waste tire facilities are in proposed subsection 18420(a), such as automobile dismantler and tire dealer, and in proposed section 18420.1 that specifies Waste Tire Collection Location requirements. Whether waste tires are stored at an exempt or excluded facility or at a permitted waste tire facility, they pose similar threats to public health, safety, and the environment. Additionally, because these types of waste tire facilities are not required to submit a waste tire facility permit application to operate, the number of waste tire facilities that currently qualify for a waste tire facility permit exclusion is uncertain. This proposed section would ensure that the Department is aware of these excluded waste tire facilities and that these excluded waste tire facilities would be maintained in a manner that meets SMS.

Currently these excluded waste tire facilities are not required to obtain a waste tire facility permit from the Department and this proposed section does not change that. Accordingly, this proposed section requires an excluded waste tire facility to identify itself to the Department, cite a regulatory basis for its permit exclusion, describe its facility operations, and certify that it complies with all local government requirements.

**Subsection (a)** Proposed subsection 18431.2(a) is added to specify that, before commencing operations, an excluded waste tire facility, as defined by current subsections 18420(a)(2), (a)(4), (a)(6), and (a)(7), and proposed subsection 18420.1, is required to notify the Department in writing. The phrase "...in a manner approved by the Department..." ensures that the information obtained is sufficient to provide a complete overview of the operations on-site by the Department and to ensure it is consistent for excluded waste tire facilities. This subsection is further necessary to put the regulated community on notice that it must provide the information set forth in subsections 18431.2(a)(1) through 18431.2(a)(3) below to the Department.

Although the phrase "in a manner approved the Department" was initially included in the final text of the proposed regulations, it, along with the phrase, "at a minimum" were removed from this subsection for improved clarity.

**Subsection (a)(1)** Proposed subsection 18431.2(a)(1) is added to specify that the owner and/or operator of an excluded waste tire facility shall provide the Department with the site Tire Program Identification (TPID) number, assessor parcel number, property owner name, address, and phone number, and operator contact information. Should it become necessary to locate and communicate with the owner and/or operator of an excluded waste tire facility, this basic information will allow the Department to do so. For example, prompt access to location and facility contact information of an excluded waste tire facility would enable the Department to respond to an emergency in a more timely manner.

**Subsection (a)(2)** Proposed subsection 18431.2(a)(2) is added to specify that an owner and/or operator of a waste tire facility shall notify the Department of its permit exclusion status by providing information regarding the underlying regulation or statute authorizing the exclusion, and a description of the waste tire facility operations at the excluded waste tire facility. The operation types that fall within the definition of excluded waste tire facilities are limited. Because waste tires stored at an excluded waste tire facility potentially pose a threat to public health, safety and environment, the language is necessary to ensure that an excluded waste tire facility is an operation specified in proposed sections 18420(a), Applicability, or 18420.1, Waste Tire Collection Location. The requirement that an excluded waste tire facility operator or owner provide a description of the operations ensures the Department has the information with which to verify compliance.

**Subsection (a)(3)** Proposed subsection 18431.2(a)(3) is added to require that the owner and/or operator certifies under penalty of perjury that the information provided in a permit exclusion notice is true and correct. Additionally, the owner or operator shall

certify that the excluded waste tire facility complies with all required permits, licenses, and other local approvals. This proposed subsection is necessary to ensure that the person submitting the notification for a permit exclusion has complete knowledge of all aspects of the waste tire facility operation.

An excluded waste tire facility is not subject to Department permitting requirements, such as verification of local land use approvals. Waste tires stored at an exempt or excluded waste tire facility, or a permitted waste tire facility, do potentially pose similar threats to public health, safety and the environment. The proposed language is added to ensure that an excluded waste tire facility meets local zoning and other requirements necessary to operate.

**Subsection (b)** Proposed subsection 18431.2(b) is added to specify that, for the purpose of complying with proposed subsection 18431.1(a), the Department shall treat a handwritten, facsimile, or electronic signature as original. Electronic communication has become an increasingly common and legitimate way to submit and distribute information. This proposed subsection is necessary to specify that the Department will accept and treat an electronic document and signature as an original document.

**Subsection (c)** Proposed subsection 18431.2(c) is added to specify that thirty (30) days prior to discontinuing operations the operator or owner of an excluded waste tire facility is required to notify the Department in writing. This proposed subsection is necessary to allow the Department to schedule an inspection of an excluded waste tire facility site prior to cessation of operations. This timeframe has proven to be reasonable for other Department programs. It provides a person responsible for discontinuing or dismantling site operations with a reasonable amount of time to remove all waste or used tire material. This language is consistent with current subsection 18440(a) which requires a permitted waste tire facility to notify the Department that it will cease operations.

**Subsection (d)** Proposed subsection 18431.2(d) is added to specify that at the time an excluded waste tire facility discontinues operations, the person responsible, including but not limited to the owner or operator, is required to be in compliance with all applicable waste tire laws and regulations. Also, waste tires left at a closed or abandoned site would pose a threat to public health, safety and the environment. Therefore, this language is necessary to ensure that the waste tire material on-site is removed and taken to a facility that has precautions in place to protect the health and safety of the public and environment, and that the Department is notified of the closure so that it can verify all waste tire material has been removed. This language is consistent with current section 18441 that requires a permitted waste tire facility to notify

the Department that it has ceased operations and that all waste tires on-site have been properly recycled or disposed.

### **Section 18431.3 – Beneficial Reuse Project**

#### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

This proposed section is added. It replaces, in part, current subsection 17346(f) and consolidates beneficial reuse requirements in a single section. Current subsection 17346(f) includes requirements for beneficial reuse under “Waste Tire Monofill Regulatory Requirements.” PRC section 42871 requires the Department to administer a tire recycling program that promotes and develops alternatives to the landfill disposal of waste whole tires. PRC subsection 42873(a) authorizes the Department to fund projects that use waste or used tires for projects such as crash barriers and erosion control. The Department found the existing regulations to be difficult to locate in current section 17346. Adding this proposed section clarifies the beneficial reuse application process for the public, and ensures that waste or used tires used in these projects are properly used and maintained in a manner that protects public health, safety and the environment.

The proposed section retains the current requirement that an operator shall apply for and obtain approval for a beneficial reuse project. Waste tires or used tires configured in a beneficial reuse project would not be subject to permitting and SMS requirements. However, if those waste tires or used tires were not properly maintained, they could potentially pose similar threats to public health, safety and the environment as other waste tires or used tires stored at an exempt or excluded waste tire facility, or a permitted waste tire facility. Therefore, it is imperative that the Department review the proposed project, approve it, and place restrictions on it, if necessary, before it commences.

**Subsection (a)** Proposed subsection 18431.3(a) is added. It replaces, in part, current subsection 17346(f)(3). This proposed subsection specifies that a person wishing to use waste or used tires in a beneficial reuse project shall first submit to the Department “a written request...prior to commencement of the reuse project.” The Department has observed waste tires being used in projects such as erosion control or racetrack barriers for which no Department approval has been given. Once waste tires or used tires are included in a beneficial reuse project, removal or altering the manner in which the waste tires or used tires are configured becomes difficult. This proposed subsection is necessary to ensure that the owner or operator of a beneficial reuse project requests

Department approval of the use before the waste tires or used tires are put in place. This proposed subsection is permissive by stating that the Department “may” grant the proposed beneficial reuse project. This language is necessary to allow the Department to assess the information provided by the applicant and only authorize those projects that will maintain the waste tires or used tires in a manner that will not harm public health, safety and the environment. The phrase “...in a manner approved by the Department...” is necessary to ensure that the information obtained by the Department is sufficient to provide a complete overview of the operations on-site and is consistent for all types of beneficial reuse projects.

Although the phrase “in a manner approved the Department” was initially included in the final text of the proposed regulations, it was removed from this subsection for improved clarity.

**Subsection (b)** Proposed subsection 18431.3(b) is added. It replaces, in part, current subsection 17346(f)(3). This proposed subsection specifies the Department, after receipt of a complete request, shall issue a notice within ninety (90) days either approving or denying the beneficial reuse project. This timeframe has proven to be reasonable for other Department programs. This language is necessary to advise a project applicant that it shall complete a request before the Department will make a determination. This proposed subsection also gives certainty to an applicant as to whether the Department has approved or denied the beneficial reuse project.

Additionally, waste tires are difficult to remove from a beneficial reuse project if it is later determined to not be maintained properly, so the 90-day time period would allow the Department sufficient time to review all aspects of the proposed project before issuing its determination and the waste tires are put in place. This proposed subsection clarifies that the project may commence if the Department determines the beneficial reuse project meets specific requirements. This subsection is necessary to advise persons who wish to use waste or used tires in a beneficial reuse project that the Department shall approve the beneficial reuse project before construction may commence and before more than 499 tires are brought to the site.

**Subsection (c)** Proposed subsection 18431.3(c) is added. It replaces, in part, current subsections 17346(f)(1) and 17346(f)(2). This proposed subsection specifies that a beneficial reuse project shall meet certain engineering or cost characteristics to obtain Department approval. This determination ensures that waste tires used in a beneficial reuse project will be stable enough to support, or will be an appropriate use to achieve, the end-result beneficial reuse project.

**Subsection (c)(1)** Proposed subsection 18431.3(c)(1) is added to require that the person requesting to use waste tires or used tires in a beneficial reuse project provide a description of how the project employs one or more engineering properties of waste tires. This language is necessary to ensure that the person requesting beneficial reuse is using the waste tire or used tires in a manner that is consistent with an engineering need and not simply as a way to dispose of waste tire or used tires or otherwise circumvent waste tire storage laws.

**Subsection (c)(2)** Proposed subsection 18431.3(c)(2) is added to require that the person requesting to use waste tires in a beneficial reuse project provide a description of how the use of waste tire or used tires in the project provides equal or superior performance or lower cost relative to conventional technologies. This language is necessary to ensure that the person who is requesting the beneficial reuse has thoroughly researched the use of waste tires or used tires in a project so that the waste tires or used tires are use in a structurally sound, stable manner.

**Subsection (c)(3)** Proposed subsection 18431.3(c)(3) is added to require that the person requesting to use waste tire and used tires in a beneficial reuse project provide written evidence that the project does not pose a threat to the public health, safety and the environment. This is necessary to ensure that waste tires or used tires will not pose a threat before the waste tire or used tires are incorporated into an engineered structure or other type of project from which they cannot be easily extracted.

**Subsection (c)(4)** Proposed subsection 18431.3(c)(4) requires that the proposed project be approved in writing by a civil engineer. A civil engineer is the best person to review project involving structures, material properties, and erosion control techniques to ensure that the structures or erosion control mechanisms do not fail over time and pose a threat to the health and safety of the public and the environment. This language is necessary to ensure that the proposed project has been reviewed by a person with the best expertise to make those determinations and to ensure that the waste tires or used tires will not become a threat and are suitable for the intended purpose.

**Subsection (d)** Proposed subsection 18431.3(d) is added to put the regulated community on notice of the requirements for a person who is responsible for discontinuing or dismantling a beneficial reuse project.

**Subsection (d)(1)** Proposed subsection 18431.3(d)(1) is added to require a person responsible for discontinuing or dismantling a beneficial reuse project to properly remove all tire material to an authorized facility. Waste tires left at a closed or abandoned site would pose a threat to public health, safety and the environment.

Therefore, this language is necessary to ensure that the waste tire material on-site is removed and taken to a facility that has precautions in place to protect the health and safety of the public and environment, and that the Department is notified of the closure so that it can verify all waste tire material has been removed. This language is consistent with 14 CCR section 18441 that requires a permitted waste tire facility to notify the Department that it has ceased operations and that all waste tires on-site have been properly recycled or disposed.

**Subsection (d)(2)** Proposed subsection 18431.3(d)(2) is added to require a person responsible for discontinuing or dismantling a beneficial reuse project to notify the Department when the closure activity is complete. This language is necessary to ensure that the Department is aware when a beneficial reuse project has been dismantled and to ensure that waste tires are not left behind to pose a threat to the health and safety of the public and environment.

**Subsection (e)** Proposed subsection 18431.3(e) is added to specify that a beneficial reuse project approved by the Department is exempt from the tire permitting and storage requirements of proposed sections 17350 through 17357 and 18420 through 18428. This proposed subsection is consistent with the intent of PRC section 42861 in that it recognizes beneficial reuse projects as part of a statewide approach to solve the problem posed by waste tire storage. This proposed subsection is also necessary to implement PRC section 42871 that mandates the Department to administer a tire recycling program that promotes and develops alternatives to the landfill disposal of waste tires.

**Subsection (f)** Proposed subsection 18431.3(f) is added to clarify that proposed section 18431.2 does not apply to the beneficial reuse of whole or altered waste tires as solid waste at a solid waste landfill. This is necessary to make clear that operators of a solid waste landfill will not have to meet the requirements set forth in this section prior to using whole or altered waste tires in a solid waste landfill.

## **Section 18432 – Operation Plan**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

**Subsection (a)** Current subsection 18432(a) is amended to delete the acronym “14 CCR,” and add “of Title 14 of the California Code of Regulations” for clarity and consistency with the proposed regulations.

**Subsection (b)** No change.

### **Section 18433 – Emergency Response Plan**

#### SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

Current section 18433 is amended throughout to replace the term “Board” with “Department” pursuant to PRC section 40400.

**Subsection (a)** Current subsection 18433(a) is amended. The term “Department” replaces “Board” pursuant to PRC section 40400.

**Subsection (b)** Current subsection 18433(b) is amended. The term “Department” replaces “Board” pursuant to PRC section 40400.

### **Section 18434 – Reduction/Elimination Plan**

#### SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

**Subsection (a)** No change.

### **ARTICLE 8.5. WASTE TIRE HAULER REGISTRATION AND MANIFESTING REQUIREMENTS FOR USED AND WASTE TIRE HAULERS, RETREADERS, USED AND WASTE TIRE GENERATORS, AND USED AND WASTE TIRE END-USE FACILITIES**

The current Article 8.5 title is amended to read “Waste Tire Hauler Registration and Manifesting Requirements for Waste and Used Tire Haulers, Retreaders, Waste and Used Tire Generators, and Waste and Used Tire End-Use Facilities.”

Replacing the term “Used and Waste” with “Waste and Used” is necessary for clarity and consistency with the proposed regulations.

## Section 18450 - Definitions

### SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

Current section 18450 is amended. The proposed changes are needed to: reflect changes in statute, address issues that have developed since this section was last revised, and be consistent with the proposed regulations revisions.

Three (3) definitions are added: "Port Terminal," "Waste or Used Tire Generator," and "Waste or Used Tire Hauler."

Two (2) definitions are deleted: "Used or Waste Tire Generator," and "Used or Waste Tire Hauler."

Twenty-six (26) definitions are amended: "Board," "CIWMB," "Collection Center," "Common Carrier," "Comprehensive Trip Log," "End-Use Facility," "Facility," "Generator," "Hauler," "Load," "Manifest Form," "Place of Business," "Registration," "Registered Vehicle Owner," "Retreader," "Revenue," "Tire Casing," "Tire Program Identification Number," "Trip," "Unregistered Hauler & Comprehensive Trip Log Substitution Form," "Used Tire," "Vehicle Description," "Waste Tire," "Waste Tire Hauler Decal," "Waste Tire Hauler Registration," and "Waste Tire Manifest System."

**Subsection 18450(a)(1) "Board"** Current subsection 18450(a)(1) "Board" is amended to replace the phrase "an agency" with "a Board" to accurately describe the organizational nature of CIWMB prior to January 1, 2010. The changes are necessary for consistency with PRC sections 40400 and 40401.

**Subsection 18450(a)(2) "Bond"** No change.

**Subsection 18450(a)(3) "Business Name"** No change.

**Subsection 18450(a)(4) "Calendar Year"** No change.

**Subsection 18450(a)(5) "CalRecycle"** No change.

**Subsection 18450(a)(6) "CIWMB"** Current subsection 18450(a)(6) "CIWMB" is amended to replace the phrase "an agency" with "a Board" to accurately describe the organizational nature of CIWMB prior to January 1, 2010. Also, the phrase "Recovery and" is deleted, and the phrase "and Recovery" is added to accurately cite the Department name.

Proposed subsection 18450(a)(6) “CIWMB” is necessary for consistency with PRC sections 40400 and 40401.

**Subsection 18450(a)(7) “Civil Penalty”** No change.

**Subsection 18450(a)(8) “Collection Center”** Current subsection 18450(a)(8) “Collection Center” is deleted and replaced with “Collection Location’ means a location on which tires are being stored in collection in accordance with subsection 18420.1(a), and includes the containers in which tires are placed and the area surrounding the containers on which tires are temporarily placed during, unloading, sorting, and loading.” This definition is necessary for consistency with proposed section 18420.1, and to make clear what area of a site can be included in the collection location. A collection location is excluded from waste tire facility permitting requirements, if the collection location meets all the requirements set forth in proposed section 18420.1. A portion of those requirements are based on tire count and activity; therefore it is necessary to make clear the area included in a collection location so that confusion as to which tires or type of activity will be counted at the site is avoided.

Addition of the definition of “Collection Location,” and reference to the requirements of proposed section 18420.1, are necessary to distinguish a “Collection Location” from other types of waste tire facilities.

**Subsection 18450(a)(9) “Commingled”** No change.

**Subsection 18450(a)(10) “Common Carrier”** Current subsection 18450(a)(10) “Common “Carrier” is amended to replace: 1) each “used or waste” phrase with “waste or used,” 2) “must” with “shall,” and 3) “Section 42954(a)” with “Section 42954(a)(6).” Proposed subsection 18450(a)(10) is necessary for: 1) clarity and consistency with PRC section 42961.5, 2) consistent use of terms throughout the regulations, and 3) correct citation of PRC section 42954(a)(6).

**Subsection 18450(a)(11) “Comprehensive Trip Log”** Current subsection 18450(a)(11) “Comprehensive Trip Log” is amended to: 1) replace “California Uniform Used and Waste Used Tire Manifest System” with “California Uniform Waste and Used Tire Manifest System,” 2) replace a “10/05” CalRecycle 203 form revision date with “7/10,” and 3) add the instruction “(See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A).”

Proposed subsection 18450(a)(11) is necessary for: 1) clarity and consistency with PRC section 42961.5, 2), correct citation of the most recent CalRecycle 203 form revision date (“7/10”), and 3) clarification of the location of “Appendix A.”

**Subsection 18450(a)(12) “Decal”** No change.

**Subsection 18450(a)(13) “Electronic report”** No change.

**Subsection 18450(a)(14) “Electronic Data Transfer Form”** No change.

**Subsection 18450(a)(15) “End-Use Facility”** Current subsection 18450(a)(15) “End-Use Facility” is amended without regulatory effect to replace “used or waste” with “waste or used.”

Proposed subsection 18450(a)(15) is necessary for clarity and consistency with PRC section 42961.5.

**Subsection 18450(a)(16) “Facility”** Current subsection 18450(a)(16) “Facility” is amended without regulatory effect to replace each “used or waste” phrase with “waste or used,” delete “Title 14,” and add “of Title 14 of the California Code of Regulations.”

Proposed subsection 18450(a)(16) is necessary for clarity and consistency with PRC section 42961.5, and to accurately cite proposed section 18420.

**Subsection 18450(a)(17) “Generator”** Current subsection 18450(a)(17) “Generator” is amended without regulatory effect to replace “Used or Waste” with “Waste or Used.”

Proposed subsection 18450(a)(17) is necessary for clarity and consistency with PRC section 42961.5.

**Subsection 18450(a)(18) “Hauler”** Current subsection 18450(a)(18) “Hauler” is amended without regulatory effect to replace “Used or Waste” with “Waste or Used.”

Proposed subsection 18450(a)(18) is necessary for clarity and consistency with PRC section 42961.5.

**Subsection 18450(a)(19) “Load”** Current subsection 18450(a)(19) “Load” is amended without regulatory effect to replace “used or waste” with “waste or used.”

Proposed subsection 18450(a)(19) is necessary for clarity and consistency with PRC section 42961.5.

**Subsection 18450(a)(20) “Local Government”** No change.

**Subsection 18450(a)(21) “Manifest Form”** Current subsection 18450(a)(21) “Manifest Form” is amended to add a “7/10” CalRecycle 203 revision date, and to replace “used or waste” with “waste or used.”

Proposed subsection 18450(a)(21) is necessary to specify the most recent CalRecycle 203 form revision date, improve clarity, and be consistent with PRC section 42961.5.

**Subsection 18450(a)(22) “New Tire Adjustment”** No change.

**Subsection 18450(a)(23) “Person”** No change.

**Subsection 18450(a)(24) “Place of Business”** Current subsection 18450(a)(24) “Place of Business” is amended without regulatory effect to replace “used or waste” with “waste or used.”

Proposed subsection 18450(a)(24) is necessary for clarity and consistency with PRC section 42961.5.

**Subsection 18450(a)(25) “Registration”** Current subsection 18450(a)(25) “Registration” is moved to proposed subsection 18450(a)(26) “Registration.”

Proposed subsection 18450(a)(25) “Port Terminal” is added to define “Port Terminal.” The Department has observed a significant increase in the number of waste and used tires that move through California port terminals. Proposed sections 18460.1.1, 18460.2, 18461, and 18462 place specific requirements on manifesting and tracking waste and used tires that move through California port terminals. This proposed definition is consistent with Title 13 of the California Administrative Code section 2027.

Proposed subsections 18450(a)(25)(A) through 18450(a)(25)(C) are added to specify some, but not all, structures, areas, and private or public entities on or surrounded by port terminal property, that are included in the definition of port terminal.

Proposed subsection 18450(a)(25) is necessary for a consistent understanding of the term “Port Terminal” by the Department, its authorized representatives, and the regulated community in implementing the requirements in the proposed sections.

**Subsection 18450(a)(26) “Registered Vehicle Owner”** Current subsection 18450(a)(26) “Registered Vehicle Owner” is moved to proposed subsection 18450(a)(27).

Proposed subsection 18450(a)(26) “Registration” is moved from current subsection 18450(a)(25).

**Subsection 18450(a)(27) “Retreader”** Current subsection 18450(a)(27) “Retreader” is moved to proposed subsection 18450(a)(28) and amended.

Proposed subsection 18450(a)(27) “Registered Vehicle Owner” is moved from current subsection 18450(a)(26).

**Subsection 18450(a)(28) “Revenue”** Current subsection 18450(a)(28) “Revenue” is moved to proposed subsection 18450(a)(29).

Proposed subsection 18450(a)(28) “Retreader” is moved from current subsection 18450(a)(27) and amended to replace the term “must” with “shall”

Proposed subsection 18450(a)(28) is necessary for consistent use of terms throughout the regulations.

**Subsection 18450(a)(29) “Tire Casing”** Current subsection 18450(a)(29) “Tire Casing” is moved to proposed subsection 18450(a)(30) and amended.

Proposed subsection 18450(a)(29) “Revenue” is moved from current subsection 18450(a)(28).

**Subsection 18450(a)(30) “Tire Program Identification Number”** Current subsection 18450(a)(30) “Tire Program Identification Number” is moved to proposed subsection 18450(a)(31) and amended.

Proposed subsection 18450(a)(30) “Tire Casing” is moved from current subsection 18450(a)(29) and amended to replace “used or waste” with “waste or used.”

Proposed subsection 18450(a)(30) is necessary for clarity and consistency with PRC section 42961.5.

**Subsection 18450(a)(31) “Trip”** Current subsection 18450(a)(31) “Trip” is moved to proposed subsection 18450(a)(32) and amended.

Proposed subsection 18450(a)(31) “Tire Program Identification Number” is moved from current subsection 18450(a)(30) and amended to replace each “used or waste” phrase with “waste or used.”

Proposed subsection 18450(a)(31) is necessary for clarity and consistency with PRC section 42961.5.

**Subsection 18450(a)(32) “Unregistered Hauler & Comprehensive Trip Log Substitution Form”** Current subsection 18450(a)(32) “Unregistered Hauler & Comprehensive Trip Log Substitution Form” is moved to proposed subsection 18450(a)(33) and amended.

Proposed subsection 18450(a)(32) “Trip” is moved from current subsection 18450(a)(31) and amended to replace each “used or waste” phrase with “waste or used.”

Proposed subsection 18450(a)(32) is necessary for clarity and consistency with PRC section 42961.5.

**Subsection 18450(a)(33) “Used or Waste Tire Generator”** Current subsection 18450(a)(33) “Used or Waste Tire Generator” is moved to proposed subsection 18450(a)(36) and amended.

Proposed subsection 18450(a)(33) “Unregistered Hauler & Comprehensive Trip Log Substitution Form” is moved from current subsection 18450(a)(32) and amended to add the word “New” following “CalRecycle,” and to replace the instruction “(See Appendix A)” with “(See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A).”

Proposed subsection 18450(a)(33) is necessary to indicate that form CalRecycle 204 is a newly added form and to clarify the location of “Appendix A.”

**Subsection 18450(a)(34) “Used or Waste Tire Hauler”** Current subsection 18450(a)(34) “Used or Waste Tire Hauler” is moved to proposed subsection 18450(a)(37) and amended.

Proposed subsection 18450(a)(34) “Used Tire” is moved from current subsection 18450(a)(35) and amended to replace the phrase “the Vehicle Code and of CCR, Title

13, Motor Vehicles” with “Title 13 (Motor Vehicles) of the California Code of Regulations.”

Proposed subsection 18450(a)(34) is necessary for a standard regulatory reference to the California Vehicle Code.

**Subsection 18450(a)(35) “Used Tire”** Current subsection 18450(a)(35) “Used Tire” is moved to proposed subsection 18450(a)(34) and amended.

Proposed subsection 18450(a)(34) “Used Tire” is amended to correct a typographical error created by recent legislation which renumbered the referenced section in the PRC from section 42950(j) to 42950(k).

**Proposed subsection 18450(a)(35) “Vehicle Description”** is moved from current subsection 18450(a)(36) without regulatory effect.

**Subsection 18450(a)(36) “Vehicle Description”** Current subsection 18450(a)(36) “Vehicle Description” is moved to proposed subsection 18450(a)(35).

Proposed subsection 18450(a)(36) “Waste or Used Tire Generator” is moved from current subsection 18450(a)(33) and amended to: 1) replace “used or waste” with “waste or used,” and 2) replace “provides used or waste tires to a waste tire hauler” with “produces any amount of waste or used tires,” “causes a waste or used tire hauler to transport those waste or used tires,” or “otherwise causes waste or used tires to become subject to regulation.”

PRC subsection 42950(m) states that a “waste tire generator” or “waste tire generating business” does not include a person who transports 10 or fewer waste tires at any one time. PRC subsection 42954(a)(1) exempts a person who transports fewer than 10 waste tires from the requirement to obtain a waste or used tire hauler registration. The Department has observed some confusion within the regulated community about whether or not the Legislature intended in PRC subsection 42954(a)(1) that any person who hauls less than 10 waste tires is no longer a waste or used tire generator, or intended to reiterate in PRC subsection 42950(m) that a waste or used tire generator that hauls fewer than 10 waste tires is not subject to a waste or used tire hauler registration requirement. waste tire law does not limit a person handling waste tires to a single role, i.e., the same person on the same day may act as a waste or used tire generator, registered waste or used tire hauler, unregistered waste or used tire hauler, and waste tire end-use facility.

Current subsection 18450(a)(33) “Used or Waste Tire Generator” defines “Used or Waste Tire Generator” to mean any person who provides waste or used tires to a waste or used tire hauler. However, PRC subsection 42950(m) provides a broader definition. Proposed subsection 18450(a)(36) “Waste or Used Tire Generator” clarifies that a “waste or used tire generator” means “any person whose act or process produces any amount of waste tires, causes a waste or used tire hauler to transport waste and/or used tires, or otherwise causes waste and/or used tires to become subject to regulation,” regardless of how many waste and/or used tires that waste or used tire generator may haul or require to be hauled by another person.

Proposed subsection 18450(a)(36) “Waste or Used Tire Generator” is necessary for clarity and consistency with the PRC subsection 42950(m) definition of “waste tire generator or waste tire generating business” and the PRC subsection 42954(a)(1) exemption from waste or used tire hauler registration.

**Subsection 18450(a)(36)(A)** Proposed subsection 18450(a)(36)(A) is added to clarify that a waste or used tire generator who causes to be transported ten (10) or more waste or used tires in a single load shall comply with manifest system requirements in proposed subsections 18462(a) through 18462(c).

Proposed subsection 18450(a)(36)(A) is necessary for consistency with waste and used tire manifest law as provided in PRC section 42961.5.

**Subsection 18450(a)(36)(B)** Proposed subsection 18450(a)(36)(B) is added to specify that a waste or used tire generator who causes to be transported 9 or less waste or used tires in a single load shall comply with manifest system requirements provided in proposed subsections 18462(a) through 18462(d), which require: 1) manifesting the load, or 2) if manifesting is not required, separate documentation of the load data. Waste and/or used tire load data includes, but is not limited to: waste or used tire removal method, number of waste or used tires removed, and person employed to remove the waste or used tires. This documentation is required to be retained for three (3) years and be made available to an authorized Department representative upon request.

Proposed subsection 18450(a)(36)(B) is necessary to establish minimum standards for a waste or used tire generator who causes to be transported 9 or less waste or used tires in a single load as provided in PRC section 42950 et seq.

Current regulations require that waste tire haulers manifests every tire picked up or delivered to a site, regardless of quantity. However, registration is not required for persons hauling less than 10 waste or used tires in a load. Over the past several years,

inspections have revealed that many small quantity generators either dispose of their waste tires in trash receptacles, release tires to private citizens, or transport their own tires (less than 10) to authorized locations, but they have no documentation to show where or who these tires were released to. The section would require all waste tire generators to keep records of any tires removed from their site in an effort to document the disposal. These records would need to be retained at their place of business for a duration of three years.

**Subsection 18450(a)(37) “Waste Tire”** Current subsection 18450(a)(37) “Waste Tire” is moved to proposed subsection 18450(a)(38) and amended.

Proposed subsection 18450(a)(37) “Waste or Used Tire Hauler” is moved from current subsection 18450(a)(34) and amended to replace each “used or waste” phrase with “waste or used.”

Proposed subsection 18450(a)(37) is necessary for clarity and consistency with PRC section 42961.5.

**Subsection 18450(a)(38) “Waste Tire Hauler Decal”** Current subsection 18450(a)(38) “Waste Tire Hauler Decal” is moved to proposed subsection 18450(a)(39) and amended.

Proposed subsection 18450(a)(38) “Waste Tire” is moved from current subsection 18450(a)(37) without regulatory effect and amended for accurate reference to PRC section 42950(l).

**Subsection 18450(a)(39) “Waste Tire Hauler Registration”** Current subsection 18450(a)(39) “Waste Tire Hauler Registration” is moved to proposed subsection 18450(a)(40) and amended.

Proposed subsection 18450(a)(39) “Waste Tire Hauler Decal” is moved from current subsection 18450(a)(38) and amended to clarify that: 1) a “Waste Tire Hauler Decal” may also be identified as a “Decal” in these regulations, 2) a “Decal” is “a self-adhesive tag with a unique serial number” issued “annually” by the Department, and 3) the registered hauler shall affix the “Decal” to the windshield of the vehicle for which the “Decal” was issued.

Proposed subsection 18450(a)(39) is necessary to clarify “Decal” characteristics and non-transferability to a different vehicle.

**Subsection 18450(a)(40) “Waste Tire Manifest System”** Current subsection 18450(a)(40) “Waste Tire Manifest System” is moved to proposed subsection 18450(a)(41) and amended.

Proposed subsection 18450(a)(40) “Waste Tire Hauler Registration” is moved from current subsection 18450(a)(39) and amended to replace the phrase “used or waste” with “waste or used.”

Proposed subsection 18450(a)(40) is necessary for clarity and consistency with PRC section 42961.5.

**Proposed Subsection 18450(a)(41) “Waste Tire Manifest System”** is moved from current subsection 18450(a)(40) and amended to: 1) replace “California Uniform Used and Waste Tire Manifest System” with “California Uniform Waste and Used Tire Manifest System,” and 2) replace each “used or waste” phrase with “waste or used.”

Proposed subsection 18450(a)(41) is necessary for clarity and consistency with PRC section 42961.5.

## **Section 18456.4 – Temporary Registration of Alternate Vehicles**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

**Subsection (a)** No change.

**Subsection (a)(1)** Proposed subsection 18456.4(a)(1) is added to specify that, in addition to an initial temporary registration certificate, a waste or used tire hauler may request one additional temporary registration certificate for each ten (10) vehicles registered. Stakeholders with many small hauling vehicles asked for this regulation change because it increases fleet operation and maintenance flexibility.

Proposed subsection 18456.4(a)(1) is necessary to minimize restriction of legal waste or used tire hauling by haulers with ten (10) or more registered vehicles and to allow for the ability for persons with larger fleets to have access to more temporary registrations.

**Subsection (b)** No change.

**Subsection (c)** Current subsection 18456.4(c) is amended. The abbreviation “Rev.” is added to follow “CalRecycle 682,” and “(See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A)” is added at the end of the subsection.

Proposed subsection 18456.4(c) is necessary to indicate that “1/08” following “CalRecycle 682” refers to the form’s revision date, and for clarity and consistency with current Division 7, Chapter 9, Article 9.3, and is necessary to clarify the location of “Appendix A.”

**Subsection (d)** Current subsection 18456.4(d) is amended. 1) The phrase “the local Enforcement Agency” is replaced with “an authorized representative of the Department,” 2) the word “must” is replaced with “shall,” and 3) the phrase “Local Enforcement Agency staff” is replaced with “or the authorized representative.”

Proposed subsection 18456.4(d) is necessary: 1) to avoid confusion, because the term Local Enforcement Agency is used to describe the entity responsible for inspecting solid waste facilities, whereas any representative of the Department may inspect a waste tire facility, and 2) for consistent use of terms throughout the regulations.

**Subsections (d)(1) and (d)(2)** No change.

## **Section 18459 – Waste Tire Manifest System Requirements**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

**Subsection (a)** Current subsection 18459(a) is amended. The form revision date “(7/10)” is added to follow “CalRecycle 203.”

Proposed subsection 18459(a) is necessary for clarity and consistency with current Division 7, Chapter 9, Article 8.5.

**Subsection (a)(1)** Current subsection 18459(a)(1) is amended. The phrase “used or waste” is replaced with “waste or used.”

Proposed subsection 18459(a)(1) is necessary for consistent use of terms throughout the regulations.

**Subsection (b)** Current subsection 18459(b) is amended. The phrase “used or waste” is replaced with “waste or used.”

Proposed subsection 18459(b) is necessary for consistent use of terms throughout the regulations.

**Subsection (c)** No change.

**Subsections (c)(1) through (c)(9)** Current subsections 18459(c)(1) through 18459(c)(9) are amended. The phrase “used or waste” is replaced with “waste or used.”

Proposed subsections 18459(c)(1) through 18459(c)(9) are necessary for consistent use of terms throughout the regulations.

### **Section 18460.1.1 – Waste Tire Manifest System Requirements for Common Carrier Exemption**

#### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Current section 18460.1.1 is amended throughout by replacing the phrase “used or waste” with “waste or used” for consistent use of terms throughout the regulations. Also, proposed subsection 18460.1.1(b)(1) is added to require an exempt common carrier, when a port terminal is the final destination, to: complete a Manifest Form showing the port terminal operator as the final destination, and provide a completed Manifest Form copy to the waste or used tire generator rather than a port terminal representative.

**Subsection (a)** Current subsection 18460.1.1(a) is amended. The phrase “used or waste” is replaced with “waste or used.”

Proposed subsection 18460.1.1(a) is necessary for consistent use of terms throughout the regulations.

**Subsection (b)** Current subsection 18460.1.1(b) is amended. The phrase “used or waste” is replaced with “waste or used.”

Proposed subsection 18460.1.1(b) is necessary for consistent use of terms throughout the regulations.

**Subsection (b)(1)** Proposed subsection 18460.1.1(b)(1) is added to specify manifest system requirements for an exempt common carrier who delivers waste or used tires to a port terminal as defined in proposed section 18450(a)(25).

The Department has observed a significant increase in the number of waste and used tires that regularly move through California port terminals. The Department is tasked with overseeing the storage and handling of waste and used tires throughout California,

including at port terminals. Therefore, it is imperative that waste and used tires are tracked into port terminals with a completed Manifest Form.

A common carrier of a load of waste or used tires with a final destination outside of California via a port terminal is responsible for ensuring that this load of waste or used tires is properly manifested. However, it may be difficult for a common carrier to determine with whom to leave a completed Manifest Form copy at a port terminal due to the nature of international shipping operations and/or lack of personnel authorized to receive and retain a completed Manifest Form copy at a port terminal.

Proposed subsection 18460.1.1(b)(1) requires a common carrier to leave a copy of the completed Manifest Form and confirming freight transport documentation with the generator of a load of waste or used tires destined for a port terminal. The generator is the appropriate party to retain these documents because the generator arranges for common carrier shipment to a port terminal.

Proposed subsection 18460.1.1(b)(1) is necessary to ensure: 1) common carrier shipment of waste or used tires to a port terminal is manifested, and 2) the completed Manifest Form copy is retained in a manner that allows review by an authorized Department representative.

**Subsection (c)** No change.

**Subsections (c)(1) and (c)(2)** No change.

**Subsections (d) and (e)** Current subsections 18460.1.1(d) and 18460.1.1(e) are amended. The phrase “used or waste” is replaced with “waste or used.”

Proposed subsections 18460.1.1(d) and 18460.1.1(e) are necessary for consistent use of terms throughout the regulations.

**Subsections (f) and (g)** No change.

## **Section 18460.2 – Waste Tire Manifest System Requirements for Waste Tire Haulers**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

The current section 18460.2 title is amended to add “Registered” before “Waste Tire Haulers” for clarity. All requirements in this section apply to registered waste tire haulers.

Current section 18460.2 is amended throughout by replacing “used or waste” with “waste or used,” and replacing “used and waste” with “waste and used,” for clarity and consistency with the proposed regulations.

Subsection (d)(1) is added to require a registered waste or used tire hauler to provide a completed Manifest Form copy to the waste or used tire generator when the final destination is a port terminal.

**Subsections (a) through (d)** Current subsections 18460.2(a) through 18460.2(d) are amended. “Used or waste” is replaced with “waste or used.”

Proposed subsections 18460.2(a) through 18460.2(d) are necessary for clarity and consistency with the proposed regulations.

**Subsection (d)(1)** Proposed subsection 18460.2(d)(1) is added to specify manifest system requirements for a registered waste or used tire hauler who delivers waste or used tires to a port terminal as defined in proposed section 18450(a)(25).

The Department has observed a significant increase in the number of waste and used tires that regularly move through California port terminals. The Department is tasked with overseeing the storage and handling of waste and used tires throughout California, including at port terminals. Therefore, it is imperative that waste and used tires are tracked into port terminals with a completed Manifest Form.

A registered waste or used tire hauler of a load of waste or used tires with a final destination outside of California via a port terminal is responsible for ensuring that this load of waste or used tires is properly manifested. However, it may be difficult for a registered waste or used tire hauler to determine with whom to leave a completed Manifest Form copy at a port terminal due to the nature of international shipping operations and/or lack of personnel authorized to receive and retain a completed Manifest Form copy at a port terminal.

Proposed subsection 18460.2(d)(1) requires a registered waste or used tire hauler to leave a copy of the completed Manifest Form and confirming freight transport documentation with the generator of a load of waste or used tires destined for a port terminal. The generator is the appropriate party to retain these documents because the generator arranges for common carrier shipment to a port terminal.

Proposed subsection 18460.2(d)(1) is necessary to ensure: 1) shipment of waste or used tires to a port terminal is manifested, and 2) the completed Manifest Form copy is retained in a manner that allows review by an authorized Department representative.

**Subsection (e)** No change.

**Subsection (f)** Current subsection 18460.2(f) is amended. “Used or waste” is replaced with “waste or used.”

Proposed subsection 18460.2(f) is necessary for clarity and consistency with the proposed regulations.

**Subsection (g)** No change.

**Subsections (h) and (i)** Current subsections 18460.2(h) and 18460.2(i) are amended. “Used or waste” is replaced with “waste or used.”

Proposed subsections 18460.2(h) and 18460.2(i) are necessary for clarity and consistency with the proposed regulations.

**Subsection (j)** No change.

## **Section 18461 – Manifest System Requirements for Waste Tire End-Use Facilities**

Current section 18461 is amended. Subsection 18461(a)(1) is added for consistency with proposed manifest system requirements for exempt common carriers and registered waste or used tire haulers who deliver waste or used tires to an end-use facility, as defined in proposed subsection 18450(a)(15), that is a port terminal, as defined in proposed subsection 18450(a)(25).

**Subsection (a)** No change.

**Subsection (a)(1)** Proposed subsection 18461(a)(1) is added to specify the same manifest system requirements for deliveries of waste or used tires to an end-use facility that is a port terminal as specified in: proposed subsection 18460.1.1(b)(1) for a common carrier, and proposed subsection 18460.2(d)(1) for a registered waste tire hauler.

Proposed subsection 18461(a)(1) is necessary to clarify that, while a port terminal is an end-use facility, it is not required to retain waste and used tire manifest records in the same manner as other end-use facilities due to the nature of international shipping operations and/or lack of personnel authorized to receive and retain a completed Manifest Form copy at a port terminal.

**Subsection (b)** Current subsection 18461(b) is amended. “Used or waste” is replaced with “waste or used.”

Proposed subsection 18461(b) is necessary for clarity and consistency with the proposed regulations.

**Subsection (b)(1)** Current subsection 18461(b)(1) is amended. 1) “Used or waste” is replaced with “waste or used, and ” 2) “end use” is replaced with “end-use,” and 3) “(CalRecycle 204)” is replaced with “(CalRecycle 204, New 8/05).”

Proposed subsection 18461(b)(1) is necessary: 1) for clarity and consistency with the proposed regulations, 2) to correct a typographical error, and 3) for more accurate and complete reference to the CalRecycle 204.

**Subsection (b)(2)** Current subsection 18461(b)(2) is amended. 1) “(New 8/05)” is added to follow “CalRecycle 204,” 2) “used or waste” is replaced with “waste or used,” and 3) “Local Enforcement Agency” is replaced with “Solid Waste Enforcement Agency.”

Proposed subsection 18461(b)(2) is necessary: 1) for more accurate and complete reference to the CalRecycle 204, 2) for clarity and consistency with the proposed regulations.

**Subsection (b)(3)** Current subsection 18461(b)(3) is amended. 1) “Used or waste” is replaced with “waste or used,” 2) “Local Enforcement Agency” is replaced with “Solid Waste Enforcement Agency,” and 3) “CalRecycle 204” is replaced with “CalRecycle 204 (New 8/05).”

Proposed subsection 18461(b)(3) is necessary: 1) for clarity and consistency with the proposed regulations, and 2) for more accurate and complete reference to the CalRecycle 204.

**Subsection (c)** Current subsection 18461(c) is amended. “Used or waste” is replaced with “waste or used.”

Proposed subsection 18461(c) is necessary for clarity and consistency with the proposed regulations.

**Subsection (d)** Current subsection 18461(d) is amended. “End use” is replaced with “end-use,” 2) “(New 8/05)” is added to follow “CalRecycle 204,” 3) “must” is replaced with “shall,” and 4) “any representative of the CalRecycle...” is replaced with “an authorized representative of the Department.”

Proposed subsection 18461(d) is necessary: 1) to correct a typographical error, 2) for more accurate and complete reference to the CalRecycle 204, 3) for consistency with the proposed regulations, and 4) to ensure that an authorized Department representative, rather than any Department representative, has access to the completed form, upon request.

## **Section 18462 – Manifest System Requirements for Waste Tire Generators**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Current section 18462 is amended. Waste or used tire generator recordkeeping requirements are clarified and added.

**Subsection (a)** Current subsection 18462(a) is amended. “Used or waste” is replaced with “waste or used.”

Proposed subsection 18462(a) is necessary for clarity and consistency with the proposed regulations.

**Subsection (b)** Current subsection 18462(b) is amended.

In sentence one of proposed subsection 18462(b), 1) a comma is added after “EDT form,” 2) “or” is deleted before “completed,” 3) a comma is added after “CTL Form,” 4) “or freight transport documentation” is added after “CTL Form,” and 5) “used or waste” is replaced with “waste or used.”

Sentence one of proposed subsection 18462(b) is necessary for: 1) correct punctuation, 2) correct grammar, 3) correct punctuation, 4), and clarity and consistency with the proposed regulations.

Sentence two of proposed subsection 18462(b) is added to require that a waste tire generator who ships waste or used tires to a port terminal shall also retain “the confirming freight transport documents at their place of business for three years.”

Sentence two of proposed subsection 18462(b) is necessary to track the movement of waste and used tires delivered to a port terminal, and is consistent with the current subsection 18462(b) waste tire generator requirement to “retain a Department approved EDT form or completed CTL Form” for three years.

**Subsection (c)** Current subsection 18462(c) is amended. 1) “Used or waste” is replaced with “waste or used,” 2) “(New 8/05)” is added to follow “CalRecycle 204,” and 3) the word “form” following “CalRecycle 204” is deleted.

Proposed subsection 18462(c) is necessary for: 1) clarity and consistency with the proposed regulations, 2) more accurate and complete reference to the CalRecycle 204, and 3) correct grammar.

**Subsection (d)** Proposed subsection 18462(d) is added to specify: 1) alternative criteria for achieving the objective of completed EDT Form, CTL, or freight transport documents, 2) a three-year record retention period, and 3) records access by authorized Department representatives.

The Department is responsible for overseeing the storage and movement of waste and used tires throughout the State of California to protect public health, safety and the environment. The PRC authorizes the Department to regulate registered waste or used tire haulers and enforce manifesting laws.

However, any person may transport a load of less than 10 waste or used tires in an unregistered vehicle, and the person is not required to manifest the origin or destination of this load of less than 10 waste or used tires. Without manifesting, the Department is unable to track these loads of less than 10 waste or used tires, and the risk of illegal waste or used tire dumping increases with a corresponding increase in threats to public health, safety, and the environment.

A potentially greater risk is posed when a person employed to remove waste or used tires from a generator location restricts the waste or used tire quantity picked up at a single address to less than 10 waste or used tires, but accumulates 10 or more waste or used tires per load delivered to an end-user. PRC section 42954 requires any person, unless specifically exempt, who hauls 10 or more waste or used tires to be a registered waste or used tire hauler, and haul the waste or used tires with a vehicle that is registered with the Department. An unregistered waste or used tire hauler with 10 or more waste or used tires, or any load of 10 or more waste or used tires in a vehicle that is not registered with the Department, is a violation of California law.

Proposed subsection 18462(d) is added to require a waste or used tire generator to retain for three years daily log records of each load of waste and used tires removed from the waste tire generator facility, including the: 1) removal method, 2) number of waste or used tires, and 3) person employed to remove each load of waste or used tires from the waste tire generator location.

Proposed subsection 18462(d) is necessary to ensure that loads of less than 10 waste or used tires, when aggregated regionally or statewide, do not become a disproportionate threat to public health, safety and the environment. A waste or used tire generator is the appropriate person to record this information because the waste tire generator decides to transfer custody of each load of waste or used tires to an unregistered waste or used tire hauler, and would be in the best position to have the required information.

**Subsection (d)(1)** Proposed subsection 18462(d)(1) is added to specify acceptable documentation of each separate or commingled load of waste or used tires removed from a waste or used tire generator location in situations where manifest requirements in PRC section 42961.5 and proposed section 18459 do not require completion of a Manifest Form.

Proposed subsection 18462(d)(1) is necessary to clarify and provide guidance to the regulated community about which categories of documentation satisfy the performance requirements of proposed section 18462(d).

**Subsection (d)(1)(A)** Proposed subsection 18462(d)(1)(A) is added to require a waste or used tire generator to retain, at minimum, bills of lading, receipts, monthly billing statements between a waste or used tire generator and a person employed to remove a load of less than 10 waste or used tires, and contact information for a person employed to remove a load of less than 10 waste or used tires.

Proposed subsection 18462(d)(1)(A) is necessary to track hauling of loads of less than 10 waste or used tires in situations where manifesting is not required. Proposed subsection 18462(d)(1)(A) is consistent with documentation requirements for a waste or used tire generator required to retain completed Manifest Form copies that document registered waste or used tire hauler removal of waste and used tires from a waste or used tire generator facility.

**Subsection (d)(1)(B)** Proposed subsection 18462(d)(1)(B) is added to require a waste or used tire generator to complete and retain daily log entries of each load of less than 10 waste and used tires in situations where manifesting is not required that, at a minimum, details the accumulation and removal of the waste and used tires, types of tires, and dates of removal.

Proposed subsection 18462(d)(1)(B) is necessary to track hauling of loads of less than 10 waste and used tires in situations where manifesting is not required, and is necessary to specify how to organize documentation required in proposed subsection 18462(d)(1)(A).

**Subsection (d)(2)** Proposed subsection 18462(d)(2) is added to require a waste or used tire generator to retain the documentation required in proposed subsection 18462(d) for three years, and make it available to an authorized Department representative upon request.

Proposed subsection 18462(d)(2) is necessary to track hauling of loads of less than 10 waste and used tires in situations where manifesting is not required. Proposed subsection 18462(d)(2) is consistent with the proposed section 18462(b) requirement to maintain CTLs for three years.

**CHAPTER 9. PLANNING GUIDELINES AND PROCEDURES FOR PREPARING AND REVISING COUNTYWIDE INTEGRATED WASTE MANAGEMENT PLANS**

**ARTICLE 9.3 ADJUSTMENT METHOD FOR CALCULATING CHANGES IN WASTE GENERATION TONNAGE (REFS & ANNOS)**

**Appendix A - CIWMB 500 Waste Tire Facility Permit Application**

**SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Current Waste Tire Facility Permit Application, CIWMB 500 (Rev. 10/02), is amended.

Identification information at the top of the CIWMB 500 is amended by replacing: 1) “California Integrated Waste Management Board” with “California Department of Resources Recycling and Recovery,” and 2) “CIWMB 500 (Rev. 10/02)” with “CalRecycle 500 (Rev. 6/14).”

Proposed Waste Tire Facility Permit Application, CalRecycle 500 (Rev. 6/14) is necessary for consistency with the proposed regulation text and pursuant to PRC 40400 and to reflect the current revision date of the form.

### **CIWMB 500, PART I. TYPE OF APPLICATION (please print or type)**

Current CIWMB 500, Part I. Type Of Application, is amended to: 1) replace “SWIS #” with “TPID #,” 2) delete a “Permit Renewal” ballot box and caption, and 3) replace “CIWMB use only” with “CalRecycle use only.”

Proposed CalRecycle 500, Part I. Type Of Application, is necessary to update the Department’s name pursuant to PRC section 40400, and for consistency with the proposed regulation text.

Proposed CalRecycle 500, Part I. Type Of Application is amended to replace “SWIS with “TPID,” for consistency with current departmental practice. The Department tracks waste tire facilities by their TPIDs within the Department’s Waste Tire Management (WTMS) Database. However, in 2002, when this application form was created, the WTMS Database did not exist; rather, waste tire facilities were tracked through the Department’s SWIS database. Now that the Department exclusively uses the WTMS database to track waste tire facilities through their TPIDs, it is critical to obtain a waste tire facility’s TPID at the time of submission of an application.

### **CIWMB 500, PART II. TYPE OF FACILITY**

Current CIWMB 500, Part II. Type Of Facility, is amended to delete: 1) an “Existing” ballot box and caption, and 2) a “Proposed” ballot box and caption.

Proposed CalRecycle 500, Part II. Type of Application, is necessary because proposed Part I. Type of Application, already asks for the permittee to state whether or not the application is for a “New Permit,” “Permit Revision,” or “Application Amendment.” From those choices, the status of the waste tire facility as existing or proposed becomes obvious and renders these boxes unnecessary.

### **CIWMB 500, PART III. GENERAL INFORMATION**

No change.

### **CIWMB 500, PART IV. AGENCY INFORMATION**

No change.

### **CIWMB 500, PART V. TYPE AND QUANTITY OF WASTE TIRES**

Current CIWMB 500, Part V. Type And Quantity Of Waste Tires, is amended to replace: 1) “Number of Waste Tires Stored or Maintained On-Site” with “Number of Whole Waste Tires/Passenger Tire Equivalents Stored or Maintained On-Site,” and 2) “Maximum Capacity” with “Maximum Capacity (Whole Waste Tires/Passenger Tire Equivalents).”

Proposed CalRecycle 500, Part V. Type And Quantity Of Waste Tires, is necessary to make clear that the amount of waste tires onsite can and will be calculated by adding both amounts of whole waste tires and passenger tire equivalents onsite.

### **CIWMB 500, PART VI. EQUIPMENT**

Current CIWMB 500, Part VI. Equipment, is amended to replace a “Bailer” ballot box and caption with a “Baler” ballot box and caption.

Proposed CalRecycle 500, Part VI. Equipment, is necessary for correct spelling.

### **CIWMB 500, PART VII. PROPOSED CHANGE TO FACILITY**

Current CIWMB 500, Part VII. Proposed Change To Facility, is amended to delete: 1) an “Administrative (describe)” ballot box and caption, and 2) a “No Change” ballot box and caption.

Proposed CalRecycle 500, Part VII. Proposed Change To Facility, is necessary because pursuant to the proposed regulation text an operator would only need to submit permitting forms for a substantial change, making the boxes marked for “Administrative” or “No Change” irrelevant and unnecessary.

## **CIWMB 500, PART VIII. REQUIRED DOCUMENTS (attachments)**

Current CIWMB 500, Part VIII. Required Documents, is amended to replace: 1) “Major & Minor WTF” with “Major & Minor Waste Tire Facility”, 2) replace “For Major WTFs” with “For Major Waste Tire Facility,” 3) an “Operation Plan (CIWMB 501)” ballot box caption with an “Operation Plan (CalRecycle 501)” ballot box caption, 4) an “Environmental Form (CIWMB 502)” ballot box caption with an “Environmental Form (CalRecycle 502)” ballot box caption, 5) an “Emergency Response Plan (CIWMB 503)” ballot box caption with an “Emergency Response Plan (CalRecycle 503)” ballot box caption, 6) a “Verification that applicable local, state, and federal permits and approvals have been acquired” ballot box caption with an “Applicable permits and approvals” ballot box caption, and 7) “Closure Plan (CIWMB 504)” with “Closure Plan (CalRecycle 504).” These changes are necessary to ensure that the forms referenced in this section correspond to the forms as they have been updated in these proposed regulations and not the current forms that have not been updated. These changes are also necessary to change “WTF” to “waste tire facility” to eliminate any confusion about what the acronym “WTF” might mean.

Current CIWMB 500, Part VIII. Required Documents, is also amended to add “include approved alternatives” in the ballot box for and “Fire Department Info.” Proposed sections 17351(f), 17354(b), and 17356(c) authorize a waste tire facility permit holder to meet waste tire storage standards different from those set forth in the proposed regulations if the local fire authority determines that a different requirement is necessary or adequate for the conditions at the waste tire facility. This proposed language is necessary to ensure that the Department is aware of the any approved deviations from the requirements set forth in the proposed regulations pertaining to the storage of waste tires at the waste tire facility so that the Department can evaluate and issue the waste tire facility permit based on all the required information.

Proposed CalRecycle. 500. Part VIII. Required Documents, is further amended by adding “alternative measures” under the ballot box for vector control measures. This change is necessary to conform with current regulation text; current section 17353 authorizes a person storing waste tires outdoors to meet vector control requirements by meeting the specific requirement set forth in subsection (a)(1) or by providing alternative requirements that have been approved by the local vector control authority pursuant to subsection (a)(2). Adding the words “alternative measures” ensure that the information received relative to this section of the form is for those vector measures that have been alternatively approved by the local vector control authority pursuant to current section 17353(a)(2).

Proposed CalRecycle, 500, Part VIII. Required Documents, is further amended to add a ballot box for a “Fire Safety Plan.” This change is necessary to reflect the proposed regulation change to section 17351(a), which requires a waste tire facility to prepare a fire safety plan and submit to the local fire authority. Requiring the permit applicant to attach a copy of the fire safety plan to application is necessary to ensure that Department has all of the information necessary to review the application and also issue a complete and correct permit for the waste tire facility.

Proposed CalRecycle 500, Part VIII. Required Documents, is further amended to replace “Verification that local, state, and federal permits and approvals have been acquired,” to “Applicable permits and approvals have been acquired.” This change is necessary for clarity and consistency, to mirror the change made to proposed section 18431(h).

### **CIWMB 500, PART IX. OWNER SIGNATURE**

Current CIWMB 500, Part IX. Owner Signature, states: “I certify that this document and all attachments were prepared under my direction or supervision. I have inquired of the person or persons who manage the system or those persons directly responsible for gathering the information, and certify that the information submitted is, to the best of my knowledge and belief, true, accurate and complete.”

Proposed CalRecycle 500, Part IX. Owner Signature, states: “I certify under penalty of perjury that the information I provided for this application and for any attachments is true and accurate to the best of my knowledge and belief. I am aware that the operator intends to operate a waste tire facility at the site specified above pursuant to this application and understand that I may be responsible for the site should the operator fail to meet applicable requirements.”

Proposed CalRecycle 500, Part IX. Owner Signature, is necessary to ensure that the Department receives all true and accurate information so that it can properly evaluate the waste tire facility application. This language is also necessary to ensure that owner knows and acknowledges that he may be responsible for the site if the operator fails to meet all tire laws, regulations, and provisions of the issued waste tire facility permit.

### **CIWMB 500, PART X. OPERATOR CERTIFICATION**

Current CIWMB 500, Part X. Operator Certification, states: “I certify that this document and all attachments were prepared under my direction or supervision. I have inquired of the person or persons who manage the system or those persons directly responsible for gathering the information, and certify that the information submitted is, to the best of my knowledge and belief, true, accurate and complete.”

Proposed CIWMB 500, Part X, Operator Certification, states: “I certify under penalty of perjury that the information contained in this application and all attachments are true and accurate to the best of my knowledge and belief.”

Proposed CalRecycle 500, Part X. Operator Certification, is necessary to ensure that the Department receives all true and accurate information so that it can properly evaluate the waste tire facility application.

## **Appendix A - CIWMB 501 Waste Tire Facility Operation Plan**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Current Waste Tire Facility Operation Plan, CIWMB 501 (Rev. 10/02), is amended. Identification information at the top of the CIWMB 501 is amended by replacing: 1) “California Integrated Waste Management Board” with “California Department of Resources Recycling and Recovery,” and 2) “CIWMB 501 (Rev. 10/02)” with “CalRecycle 501 (Rev. 6/14).”

Proposed Waste Tire Facility Operation Plan, CalRecycle 500 (Rev. 6/14) is necessary for consistency with the proposed regulation text and pursuant to PRC 40400 and to reflect the current revision date of the form.

### **CIWMB 501, PART I. GENERAL INFORMATION (please print or type)**

Current CIWMB 501, Part I. General Information, is amended to: 1) replace “SWIS #” with “TPID #,” and 2) replace Facility “Mailing Address” with Facility “Location.” Proposed CalRecycle 500, Part I. General Information, is necessary for consistency with the proposed regulation text and to ensure that the Department knows where the waste tire facility is physically located. The rest of this form requests information regarding the operations at the waste tire facility; it is necessary to have that same form request information regarding where that waste tire facility is physically located, so that the Department has all of that information before it when it evaluates the application.

Proposed CalRecycle 500, Part I. General Information is amended to replace “SWIS with “TPID,” for consistency with current departmental practice. The Department tracks waste tire facilities by their TPIDs within the Department’s Waste Tire Management (WTMS) Database. However, in 2002, when this application form was created, the WTMS Database did not exist; rather, waste tire facilities were tracked through the Department’s SWIS database. Now that the Department exclusively uses the WTMS database to track waste tire facilities through their TPIDs, it is critical to obtain a waste tire facility’s TPID at the time of submission of an application.

**CIWMB 501, PART II. FACILITY OPERATION DESCRIPTION (attach additional pages if necessary)**

Current CIWMB 501, Part II. Facility Operation Description is amended to add roman numerals “IV” “and VII,” and delete roman numeral “V” to the Outdoors ballot box and add roman numerals “III” “and VII,” and delete roman numeral “IV” to the Indoors ballot box regarding “How will waste tires be stored?.” These changes are necessary to be consistent with the renumbering throughout CIWMB 501. Waste Tire Facility Operation Plan. This Part II is also amended to remove “Haul Destination/Sites,” and to add “Maximum” before “quantity of waste tires to be stored. This section of the form requests a description of the waste tire facility so that the Department can properly evaluate the application. Where the applicant may haul waste tires to is not relevant to that evaluation; therefore it is necessary to remove this requirement from the form.

“[S]tore during the five year permit period” is replaced with “have on site at any time,” for consistency with regulation text that deletes the five-year expiration date for waste tire facility permits, and to make clear that the amount of waste tires allowed in a waste tire facility permit is the maximum amount an operator may have on-site at any one time.

Finally, “if needed” is added to make clear that this standard may not apply to every applicant because only major waste tire facilities require financial assurances.

**CIWMB 501. PART III. OUTDOOR STORAGE REQUIREMENTS**

Current CIWMB 501. Part III. Outdoor Storage Requirements is amended.

The title “Outdoor Storage Requirements” is amended to “Storage Requirements” for consistency with proposed regulation text that provides storage requirements for both indoor and outdoor storage of waste tires.

The section is amended by: “One, dry chemical,” is replaced with “[b]uildings and structures equipped with portable” to modify “fire extinguishers, “weight” is deleted, “one 2 ½ gallon water extinguisher” is deleted, “or comparable pole” is added and “one portable fire extinguisher with minimum rating of A:40-B:C on each piece of fuel powered equipment” is added, “on-site” is moved to modify equipment, “or alternative equipment approved by the local fire authority” is added, “[a]ny local fire authority requirements? Attach any local fire authority agreement/approval” is deleted, “other, explain” is replaced with “[w]ater supply within 500 ft. of storage piles,” “agreement” is

replaced by “alternative,” waste tires located beneath electrical power lines > 750 volts” is added for consistency with the proposed regulation text.

This section is further amended by adding “alternative measures” under subsection c, vector control measures. This change is necessary to conform with current regulation text; current section 17353 authorizes a person storing waste tires outdoors to meet vector control requirements by meeting the specific requirement set forth in subsection (a)(1) or by providing alternative requirements that have been approved by the local vector control authority pursuant to subsection (a)(2). Adding the words “alternative measures” ensure that the information received relative to this section of the form is for those vector measures that have been alternatively approved by the local vector control authority pursuant to current section 17353(a)(2).

#### **CIWMB 501. PART III. D. OUTDOOR STORAGE REQUIREMENTS**

Subsections “D” is renumbered “IV, “ and the number “III” is replaced with “IV”; this change is necessary so that all of the outdoor storage requirements can all be in the same part (Part IV) of the application form. The subsections “A” through “C” under the new Part IV are renumbered for grammar and consistency with the numbering of the rest of the form.

The section is amended by replacing “units” with “piles,” “Do any waste tire storage units within 20 feet of the property line exceed 6 feet in height” is replaced with “[a]re waste tire piles located under bridges, elevated trestles, or elevated roadways,” “or other flammable or combustible materials” is replaced with “waste tire piles, stored used tires, waste tire material or products made from tires,” “Are fire lanes between adjacent waste tire storage units and between waste tire storage units and structures that are located either on site or off-site less than the minimum width specified in section 17354?” with “[i]f more than 150,000 cubic feet of waste tires will be stored on-site, are the waste tires stored in accordance with 17354(i)?”, “Are waste tires stored less than 150 feet from the property line” with “Are waste tires stored less than 50 feet from the property line or building,” “Are waste tires stored less than 40 feet from vegetation, or other materials,” with “Are waste tires stored less than 40 feet from combustible ground vegetation, waste tire piles, stored used tires, waste tires material or products made from tires,” “Describe how surface water drainage will be diverted around the sway from the waste tire storage area. Describe and/or indicate on appropriate map (may be included on map required under Part V. Map Requirements on Page 5.)” is deleted, “Are there grades or other physical features that would interfere with fire-fighting equipment or personnel, No, Yes, (existing facility attach fire authority approved requirements) (new facility see section 17354(f)(2)) If yes, explain” is deleted for consistency with outdoor storage standards set forth in proposed section 17354.

#### **CIWMB 501. PART IV. INDOOR STORAGE**

Section “IV” is replaced with “V” for consistency in numbering with the rest of the form. This section is amended to replace “NFPA 231D” with “Title 24 Section 17356” for consistency with the proposed regulation text.

#### **CIWMB 501. PART V. MAP REQUIREMENTS**

Roman numeral “I” is added to the current section number “V” to create section number “VI” for consistency in numbering with the rest of the form.

This section is amended to add “[w]aste tire storage boundaries and,” to replace “D” with “d,” and “units” with “piles,” under subsection b, which provides the requirements of the Plot plan of site. These changes are necessary to ensure consistency with the proposed regulation text and to ensure that the Department has information regarding the boundaries of waste tires storage so that it can adequately review the permit application and issue a permit that correctly describes the activities onsite. This section is further amended to add “water tank,” and “and capacity of water tanks” under subsection e, for consistency with the proposed regulation text. .

#### **CIWMB 501. PART VI. OPERATOR CERTIFICATION**

Roman numeral “I” is added to the current section number “VI” to create section number “VII” for consistency in numbering with the rest of the form.

This section is amended to replace “I certify that this document and all attachments were prepared under my direction or supervision. I have inquired of the person or persons who manage the system or those persons directly responsible for gathering the information, and certify that the information submitted is, to the best of my knowledge and belief, true, accurate and complete.” with “I certify under penalty of perjury that the information contained in this application and all attachments are true and accurate to the best of my knowledge and belief.”

Proposed CalRecycle 501, Part VII. Operator Certification, is necessary to ensure that the Department receives all true and accurate information so that it can properly evaluate the waste tire facility application.

## **Appendix A - CIWMB 502 Waste Tire Facility Environmental Information**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Current Waste Tire Facility Environmental Information, CIWMB 502 (Rev. 9/02), is amended.

Identification information at the top of the CIWMB 502 is amended by replacing: 1) “California Integrated Waste Management Board” with “California Department of Resources Recycling and Recovery,” and 2) “CIWMB 502 (Rev. 9/02)” with “CalRecycle 502 (Rev. 6/14).”

Proposed Waste Tire Facility Environmental Information, CalRecycle 502 (Rev. 6/14) is necessary for consistency with the proposed regulation text and pursuant to PRC 40400.

### **CIWMB 502. GENERAL INFORMATION**

This section is amended to replace “SWIS with “TPID,” for consistency with current departmental practice. The Department tracks waste tire facilities by their TPIDs within the Department’s Waste Tire Management (WTMS) Database. However, in 2002, when this application form was created, the WTMS Database did not exist; rather, waste tire facilities were tracked through the Department’s SWIS database. Now that the Department exclusively uses the WTMS database to track waste tire facilities through their TPIDs, it is critical to obtain a waste tire facility’s TPID at the time of submission of an application.

This section is further amended to add the word “mailing” before address in the ballot box requesting the “Project Address.” This change is necessary for consistency with the rest of this section of the form that requires the waste tire facility to state its “Mailing Address.”

### **CIWMB 502. EXISTING WASTE TIRE FACILITIES**

This section is amended to delete “An existing waste tire facility is a facility which received, stored, or accumulated waste tires, or upon which waste tires were discarded, on January 1, 1990 (PRC 42808(a))” and, “that occurred between January 1, 1999, and the date of submittal of this permit application,” are deleted. This requirement is no longer applicable to current waste tire facility permit applications. PRC 42808(a) defines an “existing waste tire facility” as “a waste tire facility which is receiving, storing or

accumulating waste tires, or upon which tires are discarded, on January 1, 1990.” Thus, the definition was written to notify those persons engaging in those activities on January 1, 1990, that they were waste tire facilities. Now, in 2014, whether or not the waste tire facility engaged in those activities in 1990 is not relevant to the permitting of a major or minor waste tire facility permit. Therefore, it is necessary to remove this requirement from the permit application to avoid confusion by the applicant and to remove superfluous information.

## **CIWMB 502. GOVERNMENT REQUIREMENTS**

This section is further amended to replace “the CIWMB” and “the Board” with “CalRecycle” for consistency and to conform with PRC 40400.

## **CIWMB 502. OPERATOR CERTIFICATION**

This section is amended to replace “I certify that this document and all attachments were prepared under my direction or supervision. I have inquired of the person or persons who manage the system or those persons directly responsible for gathering the information, and certify that the information submitted is, to the best of my knowledge and belief, true, accurate and complete.” with “I certify under penalty of perjury that the information contained in this application and all attachments are true and accurate to the best of my knowledge and belief.”

Proposed CalRecycle 502, Operator Certification, is necessary to ensure that the Department receives all true and accurate information so that it can properly evaluate the waste tire facility application.

## **Appendix A - CIWMB 503 Waste Tire Facility Emergency Response Plan**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Current Waste Tire Facility Emergency Response Plan, CIWMB 503 (Rev. 9/02), is amended.

Identification information at the top of the CIWMB 503 is amended by replacing: 1) “California Integrated Waste Management Board” with “California Department of Resources Recycling and Recovery,” and 2) “CIWMB 503 (Rev. 9/02)” with “CalRecycle 503 (Rev. 6/14).”

Proposed Waste Tire Facility Emergency Response Plan, CalRecycle 503 (Rev. 6/14) is necessary for consistency with the proposed regulation text, pursuant to PRC 40400 and to reflect the current revision date of the form.

### **CIWMB 503. PART I. GENERAL INFORMATION**

This section is amended to replace “SWIS with “TPID,” for consistency with current departmental practice. The Department tracks waste tire facilities by their TPIDs within the Department’s Waste Tire Management (WTMS) Database. However, in 2002, when this application form was created, the WTMS Database did not exist; rather, waste tire facilities were tracked through the Department’s SWIS database. Now that the Department exclusively uses the WTMS database to track waste tire facilities through their TPIDs, it is critical to obtain a waste tire facility’s TPID at the time of submission of an application.

### **CIWMB 503. PART III. EQUIPMENT**

The section is amended by: “One, dry chemical,” is replaced with “[b]uildings and structures equipped with portable” to modify “fire extinguishing, “weight” is deleted, “one 2 ½ gallon water extinguisher” is deleted, “or comparable pole” is added and “one portable fire extinguisher with minimum rating of A:40-B:C on each piece of fuel powered equipment” is added, for consistency with the proposed regulation text set forth in proposed section 17351.

## **Appendix A - CIWMB 504 Waste Tire Facility Closure Plan**

### **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION**

Current Waste Tire Facility Closure Plan, CIWMB 504 (Rev. 9/02), is amended.

Identification information at the top of the CIWMB 504 is amended by replacing: 1) “California Integrated Waste Management Board” with “California Department of Resources Recycling and Recovery,” and 2) “CIWMB 504 (Rev. 9/02)” with “CalRecycle 504 (Rev. 6/14).”

Proposed Waste Tire Facility Closure Plan, CalRecycle 504 (Rev. 6/14) is necessary for consistency with the proposed regulation text, pursuant to PRC 40400, and to reflect the current revision date of the form.

## **CIWMB 504. GENERAL INFORMATION**

This section is amended to replace “SWIS with “TPID,” for consistency with current departmental practice. The Department tracks waste tire facilities by their TPIDs within the Department’s Waste Tire Management (WTMS) Database. However, in 2002, when this application form was created, the WTMS Database did not exist; rather, waste tire facilities were tracked through the Department’s SWIS database. Now that the Department exclusively uses the WTMS database to track waste tire facilities through their TPIDs, it is critical to obtain a waste tire facility’s TPID at the time of submission of an application.

This section is amended throughout by replacing “CIWMB” with “CalRecycle” for consistency and pursuant to PRC 40400. The form date is updated to reflect this proposed version of the form. This section is further amended to replace all references to “Operation Plan, Form CIWMB 501 (9/02)” with “Operation Plan, Form CalRecycle 501 (6/14)” for consistency with the proposed regulations.

## **CIWMB 504. OPERATOR CERTIFICATION**

This section is amended to replace “I certify that this document and all attachments were prepared under my direction or supervision. I have inquired of the person or persons who manage the system or those persons directly responsible for gathering the information, and certify that the information submitted is, to the best of my knowledge and belief, true, accurate and complete.” with “I certify under penalty of perjury that the information contained in this application and all attachments are true and accurate to the best of my knowledge and belief.”

Proposed CalRecycle 504, Operator Certification, is necessary to ensure that the Department receives all true and accurate information so that it can properly evaluate the waste tire facility application.