

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

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GENERAL COMMENTS APPLICABLE TO INITIAL STATEMENT OF REASONS

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 and used 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 ISOR, WT means “waste 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 WT 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). The 2010 California Fire Code (2010 CFC) became effective on January 1, 2011. 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 and used tires at any WT facility, 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 and used tires throughout the State to ensure that they are properly maintained. PRC section 42808 defines a WT facility, and places permitting requirements on WT facilities based on specified waste tire amounts. However, many waste and used tires move through or are stored at WT facilities that are not required to obtain a WT facility permit. To ensure that waste and used tires stored at unpermitted WT facilities are properly maintained and accounted for, and to ensure that the Department can track the movement of these waste and used tires throughout the State, the Department decided to carry out a rulemaking to address potential stakeholder concerns.

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

From July 2010 through July 2011, the Department initiated a separate rulemaking by requesting public comment on proposed Waste Tire Storage, Disposal, and Permitting regulations. It conducted three 30-day informal public comment periods, including public workshops in July 2010, February 2011 and June 2011. To more efficiently use Department resources, and because these two rulemakings are closely related, the Department combined 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 at three informal workshops, and
- Telephone and e-mail contacts with State Fire Marshall and local fire authorities.

The purpose and scope of the proposed waste tire regulations noticed for a 45-day comment period are a result of the informal public comment periods described above.

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

- Incorporate 2010 California Fire Code standards into CalRecycle 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 WT facility permit reapplication procedure
- Add:
 - Notification requirement for “excluded” WT facility
 - Application requirement for “exempt” WT facility, and
 - Recordkeeping requirements for persons handling waste or used tires
- Remove requirement that CalRecycle issue “Cleanup and Abatement Order” (CAO) before issuing WT facility penalty
- Expand and clarify CalRecycle WT facility penalty schedule
- Specify manifest requirements for delivery of waste tires to port terminal
- Update reference to Department, and
- Correct spelling, punctuation, grammatical and typographical errors.

Throughout current waste tire regulations, the section symbol (§) is used rather than the term “section.” For clarity, consistency and readability, the proposed regulations use the term “section” rather than §. The Department acknowledges the final decision to use §

or the term “section” for current and proposed waste tire regulations rests with the Office of Administrative Law or the publisher.

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

- Spell out “14 CCR”
- Spell out “PRC”
- Spell out “WTF,” excluding use of “WT Facility” in proposed subsection 18429(g), Tables 1 through 6
- 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 Initial Statement of Reasons (ISOR) 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.

CHAPTER 3. MINIMUM STANDARDS FOR SOLID WASTE HANDLING AND DISPOSAL

ARTICLE 4.1. WASTE TIRE PROGRAM DEFINITIONS

Section 17225.717 – Collection

Current section 17225.717 is deleted. It is replaced, in part, by proposed section 18420.1. Recently, a number of waste tire businesses with over 5,000 tires on-site have claimed to be collection locations to avoid obtaining a WT 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 WT facility subject to Department regulation.

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

Throughout this ISOR, the Department's 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. 2010 CFC Chapters 2, 23 and 25
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 Systems (NAICS) Code/Title.*
 - e) U.S Bureau of Labor Statistics, News Release USDL-12-0450, *Employer Costs For Employee Compensation – December 2011.*

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

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

Alternatives to the proposed regulations have been considered, including a "no-action" alternative. The Department has 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 has attempted to use reasonable performance standards rather than prescriptive standards, and to minimize the 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 the tire program, including: modification of minor WT facility permit requirements to allow temporary increases in permitted capacity, incorporating tire fire standards in Department tire storage regulations, and modifying waste and used tire manifesting requirements at port terminals.

Regarding modification of minor WT 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.

Current applicable CFC standards were restated in informal draft proposed regulations. Subsequent informal public comments requested that the Department refer to applicable CFC section numbers, rather than restate current applicable 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 CFC section numbers, as reflected in proposed sections 17350, 17354, and 17356.

Waste tire manifesting requirements at a port terminal need to be modified since the amount of waste tires exported has increased over time and the current requirement to leave a completed Manifest Form at a port terminal does not work. There is no person at a port terminal who is authorized to accept a Manifest Form. 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 delivered to a port terminal.

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

Throughout this ISOR, the following statement applies to the initial determination requirement that the action will not have a significant economic impact for each proposed regulatory action. This finding is based upon the analysis included in the Economic Impact Analysis which is hereby incorporated by reference.

These regulations will not have a significant adverse economic impact on business or on the ability of California businesses to compete with businesses in other states.

Based on section 13 of Chapter 740, Statutes of 2000, the Department has 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 GC.

DUPLICATION OR CONFLICTS WITH CODE OF FEDERAL REGULATIONS

Throughout this ISOR, 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.

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 Article 5.5 of Chapter 3 of Division 7, and Chapter 6 of Division 7, the term “indoor or indoors” means waste or used tires located within a building.

2010 CFC section 202 defines a building as “any structure used or intended for supporting or sheltering any use or occupancy.” The addition of this term is necessary to ensure consistency between the waste tire program and the 2010 CFC, and avoid duplication of the 2010 CFC in applying “indoor or indoors” storage requirements in proposed section 17356. Also, proposed section 17225.821 clarifies that 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 2010 CFC.

Section 17225.822 – Exempt or Excluded

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

Proposed section 17225.822 is added to clarify that not all WT facilities that store, stockpile, or accumulate waste and used tires are required to obtain a WT facility permit, and is added to conform with exempt/excluded facilities defined by statute, existing regulations, and proposed regulations.

PRC sections 42823.5(a) and 42831 exempt three types of WT facilities from obtaining a WT 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 18431.3 exempts a beneficial reuse project if specified requirements are met.

Current section 18420(a) excludes several types of WT facilities from the requirement to obtain a WT 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 treading 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
- a used tire dealer storing fewer than 1,500 waste tires

Proposed section 18420.1 excludes a waste tire collection location storing less than 5,000 waste and 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 WT facilities and the terms used in these proposed regulations.

Section 17225.850 – Waste Tire Facility

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

Proposed section 17225.850 is added to clarify PRC section 42808 definition of a WT facility.

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

- A permitted solid waste facility
- A permitted or unpermitted major WT facility (5,000 or more waste tires)
- A permitted or unpermitted minor WT facility (500 – 4,999 waste tires)
- An exempt WT facility
- An excluded WT facility
- A location with less than 500 waste tires

“WT facility” is added and used throughout these proposed regulations to clarify that all locations that store, stockpile, or accumulate waste tires are required to meet SMS because waste tires stored at WT facilities pose a similar threat to public health, safety, and the environment. Also, WT facilities not required to obtain a major or minor WT facility permit may still be subject to local land use approvals and other local government requirements.

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.

“Department” replaces “Board” 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 proposed 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, and exempt or excluded, WT facilities are subject to SMS, and specify which 2010 CFC standards apply to a location storing waste and/or used tires indoors or outdoors. Proposed changes also specify an Enforcement Agency (EA), i.e., the Department or a designated local agency, may inspect any of these WT facilities.

The proposed amendments are necessary to clarify “exempt or excluded” as defined in proposed section 17225.822, and “waste tire facility” as defined in proposed section 17225.850. While an “exempt or excluded” WT facility is not required to obtain a minor or major WT facility permit, it is subject to applicable SMS. Clarifying that an EA may inspect any WT facility, permitted or unpermitted, is necessary to: 1) discourage mishandling of stored, accumulated, or discarded waste and/or used tires at a WT facility, and 2) to 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 WT facility, including those that are exempt or excluded. Proposed subsection 17350(a) also clarifies that SMS apply to any WT facility, including those that are exempt or excluded, and those that store “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 a WT facility.

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 any WT facility storing waste tires outdoors. It also specifies which CFC requirements are applicable to a WT facility storing waste tires outdoors. 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 “waste tire” is added to clarify that “facility” means a WT facility as defined in PRC section 42808 and proposed section 17225.850. The

phrase “500 or more” is deleted because it is included in proposed 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 refer to correct sections in the proposed regulations. The phrase “and the applicable fire prevention requirements set forth in sections 2501 through 2508 of Title 24 of the California Code of Regulations” is added to refer to correct CFC sections.

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 distinguish indoor waste tire storage standards from outdoor waste tire storage standards, and identify 2010 CFC sections that apply to indoor tire storage. The phrase “waste tire” is added to clarify that this section applies to WT facilities. 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 refer to correct sections in the proposed regulations. 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” is added to refer to correct CFC sections for storing waste tires indoors.

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 subsection 17350(b) is renumbered from current subsection 17350(c) and amended. The phrase “by burying” is deleted because it is redundant. Disposal requirements at solid waste facilities specify materials be buried. The phrase “or stored” is added. This change is necessary to clarify that proposed section 17355 includes both disposal and storage of waste tires at solid waste facilities.

Subsection (c) Current subsection 17350(c) is renumbered 17350(b) and amended. The proposed changes are discussed in subsection 17350(b).

Proposed subsection 17350(c) is renumbered 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.

Subsection (d) Current subsection 17350(d) is renumbered 17350(c) and amended. The changes are discussed in proposed subsection 17350(c).

Proposed subsection 17350(d) is added to clarify that all WT facilities, including major permitted, minor permitted, and exempt or excluded WT 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 permit WT facilities are subject to WT facility enforcement by the Department and/or an EA. The Department and/or EA cannot presume that an unpermitted, exempt, or excluded WT facility complies with current waste tire law and regulation. An EA needs evidence of compliance through periodic inspections by their authorized staff.

Section 17351 – Fire Prevention Measures

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

Subsection (a) No change.

Subsection (b) Current subsection 17351(b) is amended. The word “must” is replaced with “shall” for consistent use of terms throughout the regulations.

Subsections (b)(1) and (b)(2) No change.

Subsection (b)(3) Current subsection 17351(b)(3) is amended to delete the conjunction “and” for correct grammar.

Subsection (b)(4) Current subsection 17351(b)(4) is amended to replace a period with a semicolon, and add the conjunction “and,” to correct punctuation and grammar errors.

Subsection (b)(5) Current subsection 17351(b)(5) is amended to revise a fire extinguisher rating from “4A:40BC” to “A:40-B:C” for clarity and consistency with CFC. A period replaces a semicolon for correct punctuation.

Subsection (c) No change.

Subsection (d) Current subsection 17351(d) is amended to replace the term “Board” with the term “Department” pursuant to PRC section 40400.

The term “renewal” is replaced with “review” for consistency with proposed section 18426.

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 “facilities” means a WT facility as defined in PRC section 42808 and proposed section 17225.850.

Subsection (b) Current subsection 17352(b) is amended to add the phrase “waste tire” to clarify that “facility” means a WT facility as defined in PRC section 42808 and proposed section 17225.850.

Subsection (c) Current subsection 17352(c) is amended. The phrase “waste tire” is added to clarify that “facility” means a WT facility as defined in PRC section 42808 and proposed section 17225.850. The word “must” is replaced with “shall” wherever it appears in this subsection. The term “fire apparatus” is added for clarity and consistency with CFC.

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 the term “Department” pursuant to PRC section 40400. The word “renewal” is replaced with “review” for consistency with proposed section 18426.

Section 17354 – Storage of Waste Tires Outdoors

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

Current section 17354 is amended to add 2010 CFC requirements, and delete waste tire storage requirements based on: 1) 1993 CFC, and 2) NFPA publication 231D 1989. The proposed regulation eliminates regulatory duplication by referring to 2010 CFC sections 2501 through 2508 instead of restating these requirements in proposed section 17354, and by deleting all references to the outdated NFPA publication 231D.

Subsection (a) Current subsection 17354(a) is amended to ensure consistency with 2010 CFC. It avoids duplication of 2010 CFC by stating “Waste tires stored outdoors shall meet or exceed ‘Tire Rebuilding and Tire Storage’ California Fire Code requirements set forth in Title 24 of the California Code of Regulations, including but not limited to sections 2501 through 2508, which are incorporated herein by reference.” The remainder of current subsection 17354(a) is deleted because it contains outdated waste tire storage requirements from 1993 CFC.

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

Subsection (b) Current subsection 17354(b) is deleted 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 2010 CFC subsections 2504.2, 2505.5, and 2506.1, which are referenced in proposed subsection 17354(a).

Proposed subsection 17354(b) is moved from subsection 17354(c) and amended.

The phrase “subsections (a) and (b)” is changed to “subsection (a)” since subsection (b) is deleted, and the change is needed to refer to the correct section. “Board” is replaced with “Department” pursuant to PRC section 40400.

Subsection (c) Current subsection 17354(c) is moved to subsection 17354(b) and amended. The term “subsections” is replaced with “subsection” to correct grammar. Reference to current subsection 17354(b) is deleted to eliminate an incorrect reference. “Department” replaces “Board” pursuant to PRC section 40400; and “renewal” is replaced with “review” for consistent use of terms in the proposed regulations.

Subsection (d) Current subsection 17354(d) is deleted because it contains outdated waste tire storage requirements from 1993 CFC. Outdoor waste tire storage requirements in this deleted subsection are addressed in 2010 CFC subsections 2505.7.2 and 2505.9, which are referenced in proposed subsection 17354(a).

Subsection (e) Current subsection 17354(e) is deleted because it contains outdated waste tire storage requirements from 1993 CFC. Outdoor waste tire storage requirements in this deleted subsection are addressed in 2010 CFC subsection 2505.7.3, which is referenced in proposed subsection 17354(a).

Subsection (f) Current subsection 17354(f) is deleted because it contains outdated WT storage requirements from 1993 CFC. Outdoor waste tire storage requirements in this deleted subsection are addressed in 2010 CFC subsection 2505.7.2, which is referenced in proposed subsection 17354(a).

Subsection (f)(1) Current subsection 17354(f)(1) is deleted because it contains outdated waste tire storage requirements from 1993 CFC. Outdoor waste tire storage requirements in this deleted subsection are addressed in 2010 CFC subsection 2505.7.2, which is referenced in proposed subsection 17354(a).

Subsection (f)(2) Current subsection 17354(f)(2) is deleted because it contains outdated waste tire storage requirements from 1993 CFC. Outdoor waste tire storage requirements in this deleted subsection are addressed in 2010 CFC subsection 2505.7.3, which is referenced in proposed subsection 17354(a).

Subsection (g) Current subsection 17354(g) is deleted. It requires waste tires stored outdoors to be immediately removed from rims upon arrival at the facility. 2010 CFC subsection 2505.8 requires tires stored on rims to be separate from other tires. Both current subsection 17354(g) and 2010 CFC subsection 2505.8 are intended to prevent tires stored on rims from catching fire. The current subsection 17354(g) is deleted because its regulatory intent duplicates that of 2010 CFC subsection 2505.8. Outdoor

waste tire storage requirements in this deleted subsection are addressed in 2010 CFC subsection 2505.8, which is referenced in proposed subsection 17354(a).

Subsection (h) Current subsection 17354(h) is deleted because it contains outdated waste tire storage requirements from 1993 CFC. Outdoor waste tire storage requirements in this deleted subsection are addressed in 2010 CFC subsection 2505.9, which is referenced in proposed subsection 17354(a).

Section 17355 – Disposal of Waste Tires at Solid Waste Facilities

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

Subsection (a) Current subsection 17355(a) is amended to replace the term “Board” with the term “Department” pursuant to PRC section 40400, and the acronym “EA” is replaced with “Enforcement Agency.”

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) No change.

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 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*. The proposed changes are necessary to improve clarity and eliminate regulatory duplication by referring to 2010 CFC sections 2305, and 2501 through 2509, which are referenced in proposed subsection 17356(a).

Current section 17356 consists of three sentences in one paragraph. Proposed section 17356 reorganizes this information to improve clarity in proposed subsections 17356(a), 17356(a)(1), 17356(a)(2), and 17356(b) 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 “exceed,” the remainder of this first sentence of current section 17356 is deleted because it refers to outdated NFPA publication 231D. Indoor waste tire storage requirements referenced in current subsection 17356 are addressed in 2010 CFC, sections 2305, and 2501 through 2509, which are incorporated by reference in proposed subsections (a)(1) and (a)(2). This reference is necessary to clarify that a WT facility storing waste tires indoors shall comply with 2010 CFC, and to

eliminate duplicate regulatory text in 14 CCR. The following is added after the word “exceed”: “California Fire Code requirements as set forth in Title 24 of the California Code of Regulations, including but not limited to:”

Subsection (a)(1) Proposed subsection 17356(a)(1) is necessary to incorporate the term “High-Piled Combustible Storage” as provided in section 2305 of Title 24 of the California Code of Regulations to clarify that tires stored indoors are subject to this CFC section.

Subsection (a)(2) Proposed subsection 17356(a)(2) is necessary to incorporate the term “Tire Rebuilding and Tire Storage” as provided in sections 2501 through 2509 of Title 14 of the California Code of Regulations.

Subsection (b) Proposed subsection 17356(b) includes the second and third sentences of current section 17356. The phrase “This requirement” is replaced with “Subsection (a) requirements,” to reflect the reorganization of the section, and “Board” is replaced with “Department” pursuant to PRC section 40400.

Section 17357 - Recordkeeping

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

Proposed section 17357 is added. Pursuant to 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 and used tires throughout California. Currently, the Department is authorized to inspect WT facilities. However, an inspection only provides a snapshot in time of waste and used tire movement and storage. These proposed recordkeeping requirements would provide the Department with more complete information about storage and movement 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 WT 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 WT facility to maintain records of all waste or used tire quantities received, stored, and shipped. This language is necessary to clarify what type of information a WT facility, as that term is defined in PRC section 42808 and proposed regulations, would need to retain as records.

Subsection (b) Proposed subsection 17357(b) is added to require a WT 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.

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 WT facility statutes reside in PRC Chapter 16, “Waste Tires.” Addition of proposed section 17358 is necessary to ensure that WT 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 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 WT facility should have a WT facility permit. This proposed regulation is necessary to clarify that shredded, crumbed, or chipped waste tire material is considered TDP only when it meets the PRC section 42805.7 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 WT 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 WT 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 shredded, chipped or crumbed waste tire 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 WT facility permitting and storage law. If a WT facility owner or 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 waste tire 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 waste tire material to be considered sold, it shall be purchased from a separate and distinct WT facility.

Subsection (a)(2) Proposed subsection 17359(a)(2) is added: 1) to specify a person in possession of waste tire material that potentially meets the PRC section 42805.7 definition of TDP is accumulating this material as a constituent of a particular project or application, and 2) to specify the type of documentation that an operator may use to prove that the on-site waste tire material is destined for a particular project or application. Because TDP is not subject to waste tire permitting and SMS requirements, proposed subsection 17359(a)(2) is necessary to prevent stockpiling waste tire material that may not be promptly used in a specific project. Waste and used tires or TDP stored at an exempt or excluded WT facility, or a permitted WT facility, potentially 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.

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 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 on an annual basis.

Deleting the period is necessary for correct punctuation. Solid waste facility regulations clarify when a permitted solid waste facility may be excluded from a WT facility permit, but that requirement is not currently found in tire regulations. Adding the phrase here clarifies the threshold for a solid waste facility needing a waste tire 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 current requirements for a solid waste facility that operates under a Notification Regulatory Tier per current section 18103, and has 500 or more waste and used tires on-site. Although PRC section 42808 excludes certain permitted solid waste facilities from WT 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 solid waste facility are stored in compliance with WT facility statute and regulations. Waste and used tires stored on-site at an exempt or excluded WT facility have the potential to pose threats to public health, safety, and the environment that are similar to waste and used tires stored on-site at a permitted WT facility.

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. Recently, a number of waste tire businesses have claimed to be collection locations with over 5,000 tires on-site to avoid obtaining a WT 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 WT facility subject to Department regulation.

Proposed section 18420.1 does not change exclusion of a waste tire collection location from WT facility permitting requirements; it does clarify requirements to identify a waste tire 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 WT facility, and to ensure that the waste and used 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 includes, in part, the first two sentences of current section 17225.717. The phrase “if all of the following six (6)” is added to clarify that each condition in proposed subsections 18420.1(a)(1) through 18420.1(a)(6) shall be met for a location to be considered a waste tire collection location.

Proposed subsection 18420.1(a) is necessary for clarity and consistency with the proposed regulations.

Subsection (a)(1) Proposed subsection 18420.1(a)(1) is added. It includes, in part, current subsection 17225.717(1). Proposed subsection 18420.1(a)(1) requires all waste and used tires on-site to be kept in closed containers except when loading or unloading.

Proposed subsection 18420.1(a)(1) is necessary because waste and used tires stored on-site at an exempt or excluded WT facility have the potential to pose threats to public health, safety and the environment that are similar to waste and used tires stored on-site at a permitted WT facility.

Subsection (a)(2) Proposed subsection 18420.1(a)(2) is added. It includes, in part, current subsection 17225.717(2). This subsection requires that containers shall be kept locked except while loading and unloading. The phrase “unless authorized access is controlled pursuant to section 17352 of this Article” is not included in this subsection because unauthorized access to the waste and used tires is not possible if the waste and used tires are in locked containers or are being actively loaded or unloaded.

Subsection (a)(3) Proposed subsection 18420.1(a)(3) is added. It is derived from the phrase “licensed road transportable containers” in the first sentence of current section 17225.717. Proposed subsection 18420.1(a)(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(a)(3) is necessary because waste and used tires stored on-site at an exempt or excluded WT facility have the potential to pose threats to public health, safety, and the environment that are similar to waste and used tires stored on-site at a permitted WT facility.

Subsection (a)(4) Proposed subsection 18420.1(a)(4) is added. It replaces, in part, current subsection 17225.717(3). It includes the phrase “A waste or used tire transported to or from a collection location” to clarify that waste and used tire transport to or from a waste tire collection location shall be manifested.

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

Subsection (a)(5) Proposed subsection 18420.1(a)(5) is added. It replaces, in part, current subsection 17225.717(4). The Department continues to require in proposed subsection 18420.1(a)(5) that waste tire containers shall not remain on-site longer than ninety (90) days as specified in current subsection 17225.717(4).

Proposed subsection 18420.1(a)(5) is necessary because waste and used tires stored on-site at an exempt or excluded WT facility have the potential to pose threats to public health, safety, and the environment that are similar to waste and used tires stored on-site at a permitted WT facility.

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

have a major WT 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 WT 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 WT facility permit is a potential threat to public health, safety, and the environment.

Subsection (b) Proposed subsection 18420.1(b) is added 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 waste tire collection location inspections, the Department has observed persons claim 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.

Proposed subsection 18420.1(b) is necessary to clarify that only whole waste or used tires may be in “collection.” A location storing less than 500 altered, baled, or otherwise processed waste tires is a WT facility, not a waste tire collection location.

Subsection (c) Proposed subsection 18420.1(c) is added to require a waste tire collection location operate under the terms and conditions of all applicable local government use permits, business licenses, and other required approvals. A waste tire collection location is not required to comply with SMS or WT facility permitting requirements because the waste or used tires are stored in closed and locked containers. However, these waste or used tires potentially pose some risk to public health, safety, and the environment.

Proposed subsection 18420.1(c) is necessary to ensure that a person who wants a WT facility permit “exclusion” certifies to the Department that the site location meets all local land use requirements.

Subsection (d) Proposed subsection 18420.1(d) is added to require a waste tire collection location notify the Department in writing: 1) before commencing operations specifying that it is excluded from WT 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 and used 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.

Proposed subsection 18420.1(d) is necessary to ensure the Department is notified as specified in proposed section 18431.2.

Subsection (e) Proposed subsection 18420.1(e) is added to require a waste tire 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 WT facility to notify the Department prior to facility closure.

Proposed subsection 18420.1(e) 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(f).

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

Proposed subsection 18420.1(f) is necessary because: 1) waste and used tires left at a closed or abandoned site pose a threat to public health, safety and the environment, and 2) a closed or abandoned waste tire collection location owner and/or operator may not be available. Proposed subsection 18420.1(f) is consistent with current section 18441 which requires a permitted WT facility to notify the Department that it has ceased operations and properly disposed all waste and used tires on-site.

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 requesting specified WT facility operators to apply for a minor or major WT facility permit, the Department is proposing to require specified WT facility operators to apply for other types of authorization/approval. For example, proposed 14 CCR section 18431.1 requires any person wishing to operate an exempt WT 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 WT 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 WT facility.

Subsection (a) This subsection is amended. The phrase “or existing” is deleted, “Department” replaces “Board”, and the phrase “original and two (2) copies of the” is deleted. 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 WT 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.

Subsection (b) This subsection is amended to replace “Board” with “Department.”

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) This subsection is amended. “Department” replaces “Board” pursuant to PRC section 40400.

Subsection (b) This subsection 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’s 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 proposed 14 CCR section 18426 whose title is changed from “Permit Renewal” to “Permit Review.”

Section 18425 – Permit Issuance

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

Subsection (a) The current subsection is amended. “Department” replaces “Board” pursuant to PRC section 40400.

Subsection (b) The current subsection is amended. “Department” replaces “Board” pursuant to PRC section 40400.

Subsection (c) The current subsection is amended. “Department” replaces “Board” pursuant to PRC section 40400.

Subsection (d) The current subsection 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.

Subsection (e) The current subsection is amended. “Department” replaces “Board” pursuant to PRC section 40400.

Note: 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 WT facility permit to expire five years after issuance. Therefore, a WT facility operator is currently required to reapply every five years for a new WT facility permit by submitting a complete permit application. The proposed section removes the requirement for submittal of a new permit application, and, instead, allows a WT facility operator to submit only information related to changes made at the WT facility, to update a WT facility permit. The proposed section is necessary because it is unreasonable to require an operator to file a completely new permit application even if information in the current WT facility permit is up to date. The proposed section reduces the time between the date of submitting the document and the processing date, from the existing 395 days to a proposed 180 days. This change is necessary because it may not be practical for a WT facility operator to forecast WT facility permit information change at least 395 days in advance. Proposed subsection (a) provides two added permitting options at the time of permit review: a certification that the current permit is still applicable, or a permit revision. The proposed changes are consistent with permit review processes used by the Department for other solid waste facility permits.

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

Subsection (a) This proposed subsection is added. It replaces current subsection (a) and clarifies that the permittee shall provide documentation to the Department at least once every five years. This is necessary to ensure that the permittee is still operating 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) This proposed subsection specifies that a WT facility operator may submit to the Department a certification attesting to the fact that information in the existing WT facility permit still reflects the current operations. In many instances a WT facility continues to operate in the same manner described in its original permit application. This proposed subsection allows a WT facility operator, not proposing to make a change in the WT facility design or operation, to certify the WT facility permit and continue to operate under their current WT 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 WT facility operator can 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 WT facility permit currently on file. A permit certification application does not apply if any changes to an existing WT 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 application for a permit renewal has carefully reviewed all aspects of the WT facility renewal application package and further ensures that the Department is receiving true and accurate information on which to base its decision to issue or deny the permit renewal. The Department will recognize electronic submittals as a governing legal document.

Subsection (a)(2) This proposed subsection is consistent with proposed 14 CCR section 18427 and applies to permitted WT facilities whose operations have changed from those in the original permit application. These WT facilities do not qualify for a permit review certification under proposed subsection (a)(1), and are required to submit paperwork documenting only those specific changes without having to submit an entire renewal permit application. This proposed subsection is necessary to create a more efficient way for permitted WT facility to keep their WT facility permits up to date and to facilitate a more efficient review of those changes by the Department.

Subsection (b) This proposed subsection 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, certified, or approved a revision of the permit. The proposed changes are consistent with permit review processes used by the Department for other solid waste facility permits.

Subsection (c) The proposed subsection allows WT facilities that have a valid WT 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 WT 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 WT

facilities operating under an existing permit may qualify for the simplified process, and allows the Department to treat all WT facilities with a valid WT facility permit equally.

Subsection (d) The proposed subsection is necessary to account for situations in which a WT facility submits a review certification stating that the operations continue to comply with the terms of the existing WT facility permit, and the Department determines that the operations do not comply with the terms in the existing WT facilities permit. This language clarifies procedures to be followed in that instance.

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

Subsection (d)(2) The proposed subsection specifies that, if the Department determines that a certification is not adequate or does not reflect the current operation of the WT facility, the WT facility operator will be required to submit a permit revision application. This is necessary to ensure that changes in the operations of a WT facility are reflected in the current WT 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 WT facility.

Subsection (e) The proposed subsection specifies that a permit certification or revision application could, during the Department's review or revision process, be withdrawn by the applicant by submitting a written request to the Department. This proposed section is necessary to establish the mechanism for a WT facility operator to withdraw a permit certification or revision submitted pursuant to proposed subsection (a) above if the applicant wishes to do so.

Section 18427 – Permit Revision

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

The current section is amended. The proposed section specifies required WT 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 WT facility permit revision.

Reference to CIWMB is updated pursuant to PRC section 40400.

Subsection (a) The current subsection 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 ...", "...proposing..." is replaced with "...proposes....", and "...substantial..." is deleted. In the first paragraph the second sentence was revised to add sections "...18431, 18432, 18433, and 18434", delete "of"

and add the phrase “of this Chapter.” The proposed text removes the requirement that a change that requires a permit revision be substantial. This is necessary because, based on proposed 14 CCR section 18426, a permittee would no longer be required to submit a permit renewal application every five years detailing any changes in the operations taking place at a WT facility. This is necessary because any permit change should be submitted to the Department as a permit revision. This will ensure that the Department is notified and able to authorize all changes in the operations at a WT facility and not just substantial changes. 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 revised to clarify that the Department is required to process a permit revision in the same manner it would process a new WT facility permit application.

Subsection (b) The current subsection is amended. “Department” replaces “Board”, “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 WT 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) The current subsection is amended. The term “Paragraph” is replaced with “subsection.” The phrase “of this section” is replaced with “or in California Code of Regulations section 18426” which added the term permit review; and “the” is replaced with “a” and “Department” replaces “Board”. All these changes are necessary for clarity and consistency with the proposed regulations.

Subsection (d) The current subsection “(d)” is moved to subsection “(e)”, and amended.

Proposed subsection (d) 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 operators submitting permit revisions to the Department.

Subsection (e) The current subsection “(e)” is renumbered to “(f),” and amended. The proposed subsection is moved from current subsection “d”, and amended as follows:

“Department” replaces “Board” pursuant to PRC section 40400; the word “each” is deleted; the phrase “...a waste tire facility’s...” is added; the plural “Administrative changes...” is changed to the singular “An administrative change...”; and the phrase “...are not limited to, changes...” is changed to its singular form “...is not limited to, change...”.

Subsection (f) Proposed subsection “(f)” is renumbered from current subsection “(e)” and amended as follows: 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 (g) This proposed subsection is added. The proposed subsection authorizes the Department to require a WT facility operator to submit a permit revision if the Department, at any time, finds that the WT facility operations no longer conform to the current WT facility permit on file with the Department. This language is necessary to ensure that the WT facility continues to operate in a manner authorized by the Department.

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

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

The current section 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) The current subsection 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) The current subsection is amended. The term “owner/operator” is changed to “owner and/or operator” for clarity.

Subsection (a)(3) The current subsection 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) The current subsection 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,” for clarity. This amended title is shorter and 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 WT 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 consistency with proposed section 18429 that does not require non-compliance with a CAO before the Department may assess penalties against a person. CAOs only address tire count and that is not the only basis for a penalty. Because of the time necessary for the CAO process, critical situations that need to be addressed through penalties would be resolved more quickly with this proposed change.

Current section 18429 is organized based on whether or not a non-compliant WT facility has a Department permit. Current subsection 18429(a)(1), including Tables 1#, 2A and 2B, addresses unpermitted WT facility violations. Current subsection 18429(b)(1), including current Tables 3#, 4A, 4B and 5, addresses permitted WT 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 WT 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.

Proposed section 18429 is necessary to provide clear and concise guidance to the Department when assessing penalties for WT facility violations.

Subsection (a) Applicability:

Proposed subsection 18429(a) is added to clarify who is subject to WT facility penalties and what violations may result in penalties. Proposed subsection 18429(a) clarifies that any person, including but not limited to a WT facility owner and/or operator, who violates specified WT 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 WT facility law is not limited to specified permitted and unpermitted WT 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 WT facility.

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 (g) penalty Table 1 and risk factor Table 2 for capacity penalties at unpermitted WT 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 WT 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 WT facility as defined in PRC section 42808 and proposed section 17225.850. It refers to proposed subsection (g) penalty Tables 3 and 4 for storage and disposal violations at permitted and unpermitted WT facilities.

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 WT facility.

Proposed subsection 18429(d) is necessary to establish a process that would define penalties that apply to a permitted WT facility with more than the permitted maximum number of waste tires. It refers to proposed subsection (g) penalty Table 4 and risk factor Table 2 for capacity penalties at permitted WT 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 120 days of the required date, and to specify additional penalties if a late submission exceeds 120 days, including: expiration of the current WT 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 WT facility permit before continuing to operate.

Proposed subsection 18429(e) is necessary to establish a process that would define penalties for permitted WT 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 WT facilities failing to meet proposed section 18426 deadlines.

Subsection (f) Other Waste Tire Facility Violations:

Proposed subsection 18429(f) is added to address how penalties are calculated for a WT facility with violations outside the parameters of proposed subsections 18429(a) through 18429(e).

Proposed subsection 18429(f) is necessary to establish a process that would define penalties that apply to WT facility violations other than capacity, SMS, or permit certification. It refers to proposed subsection (g) penalty Table 6 for WT facility violations whose penalties are not specified in proposed subsection (g) penalty Tables 1 through 5.

Subsection (f)(1) Proposed subsection 18429(f)(1) is added to address how penalties are calculated for a WT facility with violations other than capacity, SMS, permit certification, permit exemption, or permit exclusion, such as a WT facility that violates inspection access or records retention requirements. Proposed subsection 18429(f)(1)

specifies penalty amounts would be determined in accordance with proposed subsection (g) Table 6 and PRC section 42852.

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

Subsection (f)(2) Proposed subsection 18429(f)(2) is added to address how a penalty is calculated for a WT 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(f)(2) specifies penalty amounts would be determined in accordance with proposed subsection (g) Table 6.

Proposed subsection 18429(f)(2) is necessary to specify applicable penalty amounts be determined without applying PRC section 42852 criteria.

Subsection (g) Penalty Tables:

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

Table 1 – Unpermitted WT Facility: Capacity Penalties

Table 1 of proposed subsection 18429(g) incorporates all violation types and penalty amounts in Table 1# of current subsection 18429(a).

Table 1 of proposed section 18429(g) 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(g) 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(g) 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 – WT Facility: Storage and Disposal Penalties

Table 3 of proposed subsection 18429(g) 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(g) 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 WT Facility: Capacity Penalties

Table 4 of proposed subsection 18429(g) incorporates all violation types and penalty amounts in Table 3# of current subsection 18429(b).

Table 4 of proposed subsection 18429(g) 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(g) 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 WT facility renewal applications were submitted late. Under proposed sections 18426 and 18427, a permitted facility would be required to certify the operation conforms to the permit, or submit a permit revision that describes changes. PRC section 42835 allows a minor permit facility penalty of \$500 - \$5,000 per violation per day, and PRC section 42825 allows a major permit facility penalty of \$1,000 - \$10,000 per violation per day. Given the history of late permit renewal submittals, the minimum penalty amount proposed in this table is double the minimum amount in statute. This increase in the minimum penalty amount would provide an additional incentive for on-time submittals.

Table 5 of proposed subsection 18429(g) 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 WT facility has a minor or major WT facility permit.

Table 6 – Other WT Facility Penalties

Table 6 of proposed subsection 18429(g) is added to clarify the additional statutory and regulatory violation penalties that do not fall under the other five tables in this proposed subsection.

In part, Table 6 of proposed subsection 18429(g) 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), 18441(a), 18443(d), and “Violation of any Permit conditions (except capacity violation).”

Table 6 of proposed subsection 18429(g) 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 WT facility) and 42834 (direct, haul or accept waste tires at an unpermitted minor WT facility), and specifies separate penalty ranges for an unpermitted major WT facility

and an unpermitted minor WT facility. The penalty range for violation of PRC section 42824 is specified in PRC section 42825: \$1,000 - \$10,000 per day. The penalty range for 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 more than 500 tires on-site, and often more than 5,000 tires on-site. Their primary business activity has been baling loose waste tires and loading baled whole waste tires into shipping containers for overseas export. Specifying the applicable violation and corresponding penalty range for directing or hauling waste tires to, or accepting waste tires at, an unpermitted major or minor waste tire facility clarifies the statutory requirements placed on waste tire generators, haulers, and end-use facilities who engage in this activity.

Table 6 of proposed subsection 18429(g) 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 waste tire law. Proposed section 18431.1 requires an exempt WT facility to apply to the Department for a permit exemption, and proposed section 18431.2 requires an excluded WT facility to first notify the Department that it is excluded from permit requirements. Since exempt and excluded WT facilities may operate with less than 500 tires, or more than 5,000 tires, a wide penalty range is needed to allow for penalty amounts that reasonably match the size of the operation, and are appropriate for a violation that is negligent or intentional. A \$500 - \$10,000 penalty range is consistent with penalty amounts specified in PRC section 42850, negligent violation of waste tire law, and PRC section 42850.1, intentional violation of waste tire law.

Table 6 of proposed subsection 18429(g) 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 WT facility. Since a major WT 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, safety, and environmental impacts of large numbers of waste tires. Major waste tire facility operators are required to meet financial assurance requirements during the permitting process, so they know of the requirement. The penalty range for violation of current sections 18470 through 18482 is consistent with PRC section 42850.1, intentional violation of waste tire law.

Table 6 of proposed subsection 18429(g) is necessary to address violations other than WT facility capacity, SMS, or permit review submittal by reorganizing them into a clear and concise table with corresponding penalty ranges.

Subsection (h) Total Penalty Calculation:

Proposed subsection 18429(h) is added. Proposed subsection 18429(h) includes, in part, requirements in current subsections 18429(a)(1) and 18429(b)(1).

Proposed subsection 18429(h) is necessary to make the method of calculating penalties more visible and clear.

Subsection (h)(1) Proposed subsection 18429(h)(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. Current subsections 18429(a)(1) and 18429(b)(1) require violation of a CAO before a penalty may be assessed. Not requiring violation of a CAO will allow the Department to address enforcement at the earliest possible time when it uses a streamlined penalty process.

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

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

Subsection (h)(3) Proposed subsection 18429(h)(3) is added to specify that WT 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 WT facility operators and/or owners would close a WT facility location after the Department or its authorized representative issued a notice of violation. The same WT facility operators and/or owners would subsequently open a similar WT facility at a new location.

Proposed subsection 18429(h)(3) is necessary to clarify that a WT facility capacity violation applies to the WT facility owner and/or operator, and the violation and/or penalty record is not expunged or removed by moving a WT facility to a new location.

ARTICLE 4. PERMIT APPLICATION

The current Article 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 to sentence two for clarity and consistency with sentence one. To improve clarity, the word “permit” in sentence two is replaced with a comma, 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 WT 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) The current subsection is amended. The proposed subsection is amended to replace “complete” with “completed” for clarity, update “form CIWMB 500 ‘Waste Tire Facility Permit Application’ (9/02)” to read “Waste Tire Facility Permit Application (10/02),” and clarify the parenthetical reference “See Appendix A” to read “See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.”

Subsection (b) The current subsection 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 (c) The current subsection 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 (d) The current subsection 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 (e) The current subsection 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 (f) No change.

Subsection (g) The current subsection 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) No change.

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 those WT facilities that are not required to apply for a WT facility permit to operate by virtue of an exemption in statute or in current regulations. Whether waste and used tires are stored at an exempt or excluded facility or at a permitted WT 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 WT facilities and to ensure that these exempt WT facilities are operated and maintained in a manner that meets SMS.

Subsection (a) This proposed subsection is added to specify that an exempt WT facility shall apply to the Department in writing for a permit exemption. The phrase “...including but not limited to...” is included because some exempt WT facilities, such as cement manufacturing plants, are authorized by statute, while others, like beneficial reuse projects, are not. Adding the phrase “including but not limited to” ensures that this proposed regulation will apply to any future statutorily or otherwise authorized exempt WT facility.

Subsection (a)(1) This proposed subsection 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) This proposed subsection is added to direct the owner and/or operator of a beneficial reuse project applicant to proposed 14 CCR section 18431.3 which sets forth the application requirements

Subsection (b) This proposed subsection is added to specify that the owner or operator of a WT 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 WT 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) This proposed subsection 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) This proposed subsection is added to specify that thirty (30) days prior to discontinuing operations the operator or owner of an exempt WT 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 WT facility to notify the Department that it will cease operations.

Subsection (e) This proposed subsection is added to specify that at the time an exempt WT 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. Waste and used 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 and used tires on-site are removed and that the Department is notified of the closure so that it can verify all waste and used tires have been removed. This language is consistent with 14 CCR section 18441 that requires a permitted WT facility to notify the Department that it has ceased operations and that all waste and used 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 those WT facilities that are not required to apply for a WT facility permit to operate by virtue of an exclusion. Examples of these WT 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 and used tires are stored at an exempt or excluded facility or at a permitted WT facility, they pose similar threats to public health, safety, and the environment. Additionally, because these types of WT facilities are not required to submit a WT facility permit application to operate, the number of WT facilities that currently qualify for a WT facility permit exclusion is uncertain. This proposed section would ensure that the Department is aware of these excluded WT facilities and that these excluded WT facilities would be maintained in a manner that meets SMS.

Currently these excluded WT facilities are not required to obtain a WT facility permit from the Department and this proposed section does not change that. Accordingly, this proposed section requires an excluded WT 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) This proposed subsection is added to specify that, before commencing operations, an excluded WT facility 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 to the Department and to ensure it is consistent for excluded WT facilities.

Subsection (a)(1) This proposed subsection is added to specify that the owner and/or operator of an excluded WT 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 an excluded WT facility, this basic information will allow the Department to do so. For example, prompt location of such a facility may allow the Department to respond to an emergency in a timely manner.

Subsection (a)(2) This proposed subsection is added to specify that an owner and/or operator of a WT 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 WT facility operations at the excluded WT facility. The operation types that fall within the definition of excluded WT facilities are limited. Because waste and used tires stored at an excluded WT facility potentially pose a threat to public health, safety and environment, the language is necessary to ensure that the excluded facility is an operation specified in proposed sections 18420(a), Applicability, or 18420.1, Waste Tire Collection Location. The requirement that an excluded WT facility operator or owner provide a description of the operations ensures the Department has the information to verify compliance.

Subsection (a)(3) This proposed subsection is added to specify 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 WT 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 WT facility operation.

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

Subsection (b) This proposed subsection 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 (c) This proposed subsection is added to specify that thirty (30) days prior to discontinuing operations the operator or owner of an excluded WT facility is required to notify the Department in writing. This proposed subsection is necessary to allow the Department to schedule an inspection of the site during 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 WT facility to notify the Department that it will cease operations.

Subsection (d) This proposed subsection is added to specify that at the time an excluded WT 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. Waste and used 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 and used tires on-site are removed and that the Department is notified of the closure so that it can verify all waste and used tires have been removed. This language is consistent with current section 18441 that requires a permitted WT facility to notify the Department that it has ceased operations and that all waste and used 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 and used 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 configured in a beneficial reuse project would not be subject to permitting and SMS requirements. However, if those waste tires were not properly maintained, they could potentially pose similar threats to public health, safety and the environment as other waste tires stored at an

exempt or excluded WT facility, or a permitted WT 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) This proposed subsection 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 are included in such a project, removal or altering the manner in which the waste 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 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 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.

Subsection (b) This proposed subsection 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 within ninety (90) days a notice of determination that a project may or may not commence. 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 were 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 greater than 499 tires are brought to the site.

Subsection (c) This proposed subsection 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 an appropriate use to achieve, the end resulting beneficial reuse project.

Subsection (d) This proposed subsection is added to specify that at the time a beneficial reuse project is discontinued or dismantled, 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. Whether waste and used tires are stored at an exempt or excluded facility or at a permitted WT facility, they pose similar threats to public health, safety, and the environment. Therefore, this language is necessary to ensure that the waste and used tires on-site are removed and that the Department is notified of the closure so that it can verify all waste and used tires have been removed. This language is consistent with current section 18441 that requires a permitted WT facility to notify the Department that it has ceased operations and properly disposed all waste and used tires on-site.

Subsection (e) This proposed subsection is added to specify that an approved 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 and used tires.

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 “Board” with “Department”.

Subsection (a) The term “Department” replaces “Board” pursuant to PRC section 40400.

Subsection (b) 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 correctly 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 correctly 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 correctly 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 amended. The current subsection title, “Collection Center,” is replaced with “Collection Location,” and current instruction “See Facility” is deleted. The definition of “Collection Location” and a reference to the requirements of proposed section 18431.2 are added.

The proposed title “Collection Location” is necessary for clarity and consistency with: 1) proposed section 17225.850 that defines “Waste Tire Facility,” 2) proposed section 18420.1 that specifies requirements for a waste tire collection location, and 3) proposed section 18431.2 that specifies a person wishing to operate a waste tire collection location shall first notify the Department in writing if the waste tire collection location would be excluded from WT facility permit requirements.

Deletion of the instruction to see the definition of “Facility” at current subsection 18450(a)(16) is necessary because it no longer applies in the context of proposed subsections 17225.850 and 18450(a)(8).

Addition of the definition of “Collection Location,” and reference to the requirements of proposed section 18431.2, are necessary to distinguish a “Collection Location” from other types of waste tire facilities, and refer to the written permit exclusion requirement prior to commencing operations as a “Collection Location.”

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).” The changes are 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) replace the instruction “(See Appendix A)” with “(See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A).” The changes are 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 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.” The changes are 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.” The changes are necessary for clarity and consistency with PRC section 42961.5, and to correctly 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.” The changes are 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.” The changes are 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.” The changes are 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.” The changes are necessary to: specify the most recent CalRecycle 203 form revision date (“7/10”), 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.” The changes are 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 on a regular basis. 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. Proposed subsection 18450(a)(25) “Port Terminal” is necessary for consistent use and understanding of the term “Port Terminal” by the Department and the regulated community.

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, are included in the definition of port terminal.

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) and renumbered.

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) and renumbered.

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 “must” is replaced with “shall.” The change 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) and renumbered.

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.” The change 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.” The changes are 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.” The change is 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 deleted. It is replaced by proposed subsection 18450(a)(36).

Proposed subsection 18450(a)(33) “Unregistered Hauler & Comprehensive Trip Log Substitution Form” is moved from current subsection 18450(a)(32) and amended to replace the instruction “(See Appendix A)” with “(See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A).” The change is necessary 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.” The change is necessary for a standard regulatory reference to the California Motor 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)(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 and/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 would include, but not be 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 would be available for inspection by an authorized Department representative throughout a three (3) year retention period.

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.

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

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.” The changes are 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.

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. The changes are 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.” The change 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.” The changes are 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.

The change is necessary to minimize restriction of legal waste or used tire hauling by haulers with ten (10) or more registered vehicles.

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 inserted at the end of the subsection. The changes are necessary for clarity and consistency with current Division 7, Chapter 9, Article 9.3.

Subsection (d) Current subsection 18456.4(d) is amended. “Must” is replaced with “shall” for consistency with the proposed 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.” The change 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. “Used or waste” is replaced with “waste or used.” The changes are necessary for clarity and consistency with the proposed regulations.

Subsection (b) Current subsection 18459(b) is amended. “Used or waste” is replaced with “waste or used.” The changes are necessary for clarity and consistency with the proposed regulations.

Subsection (c) No change.

Subsections (c)(1) through (c)(9) Current subsections 18459(c)(1) through 18459(c)(9) are amended. “Used or waste” is replaced with “waste or used.” The changes are necessary for clarity and consistency with the proposed 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 clarity and consistency with the proposed regulations. Also, proposed subsection 18460.1.1(b)(1) is added to require an exempt common carrier to provide a completed Manifest Form copy to the waste or used tire generator when the final destination is a port terminal.

Subsection (a) The current subsection is amended. “Used or waste” is replaced with “waste or used.” This change is necessary for clarity and consistency with the proposed regulations.

Subsection (b) The current subsection is amended. “Used or waste” is replaced with “waste or used.” This change is necessary for clarity and consistency with the proposed 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 waste tires at a port terminal.

The proposed subsection requires a common carrier to leave a copy of the completed Manifest Form with the generator of a load of waste or used tires destined for a port terminal. This requirement is necessary to ensure: 1) the waste or used tires are tracked to a port terminal, and 2) the completed Manifest Form copy is retained in a manner that allows review by an authorized Department representative.

The proposed subsection requires an exempt common carrier to leave confirming freight transport documentation with the generator. This requirement is necessary to ensure that the Department can verify information entered on a completed Manifest Form. The generator is the appropriate party to retain these documents because the generator arranges for common carrier shipment to a port terminal.

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. “Used or waste” is replaced with “waste or used.” The changes are necessary for clarity and consistency with the proposed 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

Current section 18460.2 is amended. The current section 18460.2 title is amended to add “Registered” before “Waste Tire Haulers” for clarity as 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.

Subsection (a) Current subsection 18460.2(a) is amended. “Used or waste” is replaced with “waste or used.” The change is necessary for clarity and consistency with the proposed regulations.

Subsection (b) Current subsection 18460.2(b) is amended. “Used or waste” is replaced with “waste or used.” The change is necessary for clarity and consistency with the proposed regulations.

Subsection (c) Current subsection 18460.2(c) is amended. “Used or waste” is replaced with “waste or used.” The change is necessary for clarity and consistency with the proposed regulations.

Subsection (d) Current subsection 18460.2(d) is amended. “Used or waste” is replaced with “waste or used.” The change is 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 waste tires at a port terminal. The proposed subsection requires a registered waste or used tire hauler to leave a copy of the completed Manifest Form with the generator of a load of waste or used tires destined for a port terminal. This requirement is necessary to ensure: 1) the waste or

used tires are tracked to a port terminal, and 2) the completed Manifest Form copy is retained in a manner that allows review by an authorized Department representative.

The proposed subsection also requires a registered waste or used tire hauler to leave confirming freight transport documentation with the generator. This requirement is necessary to ensure that the Department can verify information entered on a completed Manifest Form. The generator is the appropriate party to retain these documents because the generator arranges for registered waste or used tire hauler shipment to a port terminal.

Subsection (e) No change.

Subsection (f) Current subsection 18460.2(f) is amended. “Used or waste” is replaced with “waste or used.” The change is necessary for clarity and consistency with the proposed regulations.

Subsection (g) No change.

Subsection (h) Current subsection 18460.2(h) is amended. “Used or waste” is replaced with “waste or used.” The change is necessary for clarity and consistency with the proposed regulations.

Subsection (i) Current subsection 18460.2(i) is amended. “Used and waste” is replaced with “waste and used.” The change is 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 a port terminal, since port terminals are end-use facilities.

Subsection (a) No change.

Subsection (a)(1) Proposed subsection 18461(a)(1) is added to specify the same manifest system requirements that are in proposed subsections 18460.1.1(b)(1) and 18460.2(d)(1). This proposed subsection 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 waste tires at a port terminal.

Subsection (b) Current subsection 18461(b) is amended. “Used or waste” is replaced with “waste or used” for clarity and consistency with the proposed regulations.

Subsection (b)(1) Current subsection 18461(b)(1) is amended. “Used or waste” is replaced with “waste or used.” “End use” is replaced with “end-use.” “, New 8/05” is added to follow “CalRecycle 204.” The changes are necessary for clarity and consistency with the proposed regulations, and to correct a typographical error.

Subsection (b)(2) Current subsection 18461(b)(2) is amended. “New 8/05” is added to follow “CalRecycle 204.” “Used or waste” is replaced with “waste or used.” The changes are necessary clarity and consistency with the proposed regulations, and to reference the most up-to-date form.

Subsection (b)(3) Current subsection 18461(b)(3) is amended. “Used or waste” is replaced with “waste or used.” “(New 8/05)” is added to follow “CalRecycle 204.” The changes are necessary clarity and consistency with the proposed regulations, and to reference the most up-to-date form.

Subsection (c) Current subsection 18461(c) is amended. “Used or waste” is replaced with “waste or used.” The change 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.” “(New 8/05)” is added to follow “CalRecycle 204.” “Must” is replaced with “shall.” “...any representative of the CalRecycle...” is replaced with “...an authorized representative of the Department...” The changes are necessary to: 1) correct typographical errors, 2) improve clarity, 3) be consistent with the proposed regulations, 4) reference the most up-to-date form, and 5) ensure that only an authorized Department representative requests the completed forms.

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.” The change is necessary for clarity and consistency with the proposed regulations.

Subsection (b) Subsection 18462(b) is amended. In the first sentence, a comma is added after “EDT form,” “or” is deleted before “completed”, a comma is added after “CTL Form,” “or freight transport documentation” is added after “CTL Form,” and “used or waste” is replaced with “waste or used.” A second sentence is added regarding waste or used tire shipments to a port terminal: “For shipments to the port, the waste or used

tire generator shall also retain the confirming freight transport documents at their place of business for three years.” The changes to the first sentence are necessary for clarity and consistency with the proposed regulations. The second sentence is necessary to track the movement of waste and used tires delivered to a port terminal. Waste or used tire generator retention of confirming freight transport documents for three years is consistent with the requirement to maintain CTLs for three years as provided in current subsection 18462(b).

Subsection (c) Current subsection 18462(c) is amended. “Used or waste” is replaced with “waste or used.” “(New 8/05)” is added to follow “CalRecycle 204.” The word “form” following “CalRecycle 204” is deleted. The changes are necessary for clarity and consistency with the proposed regulations, and to refer to the most recent version of the Department form.

Subsection (d) Proposed subsection 18462(d) is added to specify alternative criteria for achieving the objective of completed EDT Form, CTL, or freight transport documents, a three-year record retention period, and 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 hauler 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 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 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 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. The waste or used tire generator is the appropriate person to record this information because the 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 waste or used tire removal 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.

The proposed subsection is necessary to clarify what categories of documentation would satisfy the performance requirements of proposed section 18462(d).

Subsection (d)(1)(A) Proposed subsection 18462(d)(1)(A) requires 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.

The proposed subsection 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) requires a waste or used tire generator to complete and retain a daily log of each load of less than 10 waste and used tires in situations where manifesting is not required that, at a minimum, specifies the accumulation and removal of the waste and used tires, types of tires, and date of removal.

The proposed subsection 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) requires 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.

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