



Alan C. Lloyd, Ph.D.
 Secretary for
 Environmental
 Protection

California Integrated Waste Management Board

Rosario Marin, Chair
 1001 I Street • Sacramento, California 95814 • (916) 341-6000
 Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025
www.ciwmb.ca.gov



Arnold Schwarzenegger
 Governor

NOTICE OF PROPOSED RULEMAKING

- TITLE 14. NATURAL RESOURCES**
- DIVISION 7. CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**
- CHAPTER 6. PERMITTING OF WASTE TIRE FACILITIES**
- 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.**

PROPOSED REGULATORY ACTION

The California Integrated Waste Management Board (Board) proposes to amend Title 14, California Code of Regulations, Division 7, Chapter 6, by amending Articles 8.5, sections 18449 through 18466 and adding section 18459.1.2. The proposed regulations make changes in the existing regulations to implement, interpret and make specific the provisions of SB 876 (Escutia, 2000), as well as correct errors, and add clarifying language to make the regulations more functional, and delete unnecessary language.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period for this rulemaking closes at the close of the hearing on February 16, 2006.** The Board will only consider comments received at the Board's headquarters by that time. Please submit your written comments to:

Claire Miller, Special Waste Division
 California Integrated Waste Management Board
 P.O. Box 4025
 Sacramento, California 95812-4025
 Fax: (916) 319-7574
 e-mail: cmiller@ciwmb.ca.gov

California Environmental Protection Agency

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PUBLIC HEARING

A public hearing to receive public comments has been scheduled for the **February 16, 2006**. The hearing will be held at the

Joe Serna Jr., Cal EPA Building
Coastal Hearing Room
1001 I Street, 2nd Floor
Sacramento, CA 95814

The hearing will begin at **10:00 a.m. on February 16, 2006** and will conclude after all testimony is given. The California Integrated Waste Management Board requests that persons making oral comments also submit a written copy of their testimony at the hearing. The hearing room is wheel chair accessible. If you have any questions, please contact Claire Miller at (916) 341-6705.

INFORMATIVE DIGEST

The California Integrated Waste Management Act (Act), Public Resources Code (PRC) §40000 *et. seq.*, gives the Board authority to provide for the protection of public health, safety and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC §40502 requires the Board to adopt rules and regulations to implement the Act. Senate Bill (SB) 744 (McCorquodale, 1993) established the Waste Tire Hauler Registration Program and required the Board to adopt regulations for the Waste Tire Hauler Registration and Manifesting Programs. On May 9, 1996, the Board's Waste Tire Hauler Regulations became effective. With the passage of these and subsequent regulations the Board has been regulating the hauling of used and waste tires. The Waste Tire Hauler Program currently registers more than 870 waste tire haulers annually, with more than 6,900 vehicles statewide, and requires that used or waste tires be manifested from the generator to the end-use or disposal facility.

Senate Bill (SB) 876 (Escutia, Statutes of 2000, Chapter 838) expanded the Board's authority to oversee the management of used and waste tires and to better serve the regulated community and to protect public health and safety and the environment. The Board was also charged with implementing a new and improved "California Uniform Waste and Used Tire Manifest System."

This new manifesting system has been implemented through previous regulation packages approved by the Board, and impacts tire generators, haulers, and end-use facilities that generate, haul and/or accept used or waste tires. The intent of SB 876 was to "close the loop" on accountability by requiring copies of a manifest form (CIWMB 647) or Tire Trip Log form (CIWMB 648) from each party (generator, hauler, and end user) to be submitted to CIWMB for monitoring and tracking tire loads and movement within California.

Unfortunately, this proved to be more of a hardship than originally expected. In August 2004, the Board approved emergency regulations for the California Retreaders allowing them to use a simplified Retreader Trip Log form (CIWMB 187) and to document tire retread transactions on this form. These regulatory changes were adopted as non-emergency regulations by the Office of Administrative Law in September 2005.

In February 2005, the Board approved a modified manifesting form, the Comprehensive Trip Log Form (CIWMB 203) in a further effort to help simplify the required paperwork, placing the responsibilities of completing the forms upon the hauler. This change was met favorably by the regulated community. Additionally, the Board established criteria for allowing the reporting party to submit electronic data to the CIWMB. These emergency regulatory changes were adopted by the Office of Administrative Law in June 2005.

The following list summarizes the more significant proposed changes to the existing regulations:

1. The two (2) required forms, the Manifest form (CIWMB 647) and the Tire Trip Log (CIWMB 648), are being replaced with one form, the Comprehensive Trip Log form (CIWMB 203).
2. The registered waste tire hauler shall complete the Comprehensive Trip Log (CTL) form.
3. The generator(s) and end-use facility(s) shall review the completed information on the CTL form, verifying the information to be accurate and complete, and then initial the form indicating that he/she has reviewed the information.
4. The hauler will then provide tear-off receipts to the generator and/or end-use facility.
4. Establishes criteria for allowing the reporting party to submit electronic data to the CIWMB.

Initial costs for developing forms and software occurred during implementation of the emergency regulations. The cost of future printing of the Comprehensive Trip Log forms will be offset by the savings from not printing the existing manifest and trip log forms.

Staff has also reviewed, interpreted, and updated inaccuracies in the existing regulations for the "California Uniform Waste and Used Tire Manifest System" found in Title 14, California Code of Regulations, Chapter 6, Article 8.5.

POLICY STATEMENT OVERVIEW

Over the past ten years the California Integrated Waste Management Board has been regulating the hauling of used and waste tires in California. The Waste Tire Hauler Program currently registers more than 870 waste tire haulers annually, with more than 6,900 vehicles statewide, and requires that every used or waste tire be manifested from the generator to the end-use or disposal facility. Existing waste tire hauler regulations set forth procedures for the waste tire haulers registration process and current manifest requirements.

The proposed regulations will no longer require two (2) separate forms completed by all responsible parties, but will require the waste tire hauler to complete one form/receipt and have the generator and end-use facility verify the information and then sign off as this information is true and correct. The form will then be submitted to the CIWMB by the hauler. All parties are required to retain the copy of the CTL receipt or hauler copy for a three (3) year period of time. Additionally, these regulations also establish criteria for submitting electronic data to the Board by the responsible party. The regulations make changes in the existing regulations to implement,

interpret and make specific the provisions of SB 876 (Escutia, 2000), as well as correct errors, add clarifying language to make the regulations more functional, and delete unnecessary language.

PLAIN ENGLISH REQUIREMENTS

Board staff prepared the proposed final regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed final regulations are considered non-technical and are written to be easily understood by those parties that will use them.

AUTHORITY AND REFERENCES

PRC §§ 40502, 42962, 42966, and 43020 provide authority for these regulations. The purpose of the proposed actions is to implement, interpret, and make specific numerous statutes and regulations related to the transportation of used and waste tires. The following is a list of references cited in these proposed regulation changes: PRC §§, 42950, 42951, 42952, 42953, 42954, 42955, 42956, 42958, 42960, 42961, 42961.5, and 42962

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

LOCAL MANDATE AND FISCAL DETERMINATIONS

Board staff has determined that the proposed regulations do not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code §§17500 through 17630; 4) other non-discretionary costs or savings on local agencies; or 5) costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

CIWMB staff made an initial determination that the proposed regulations will not have a significant effect on housing costs.

EFFECT ON BUSINESS AND SMALL BUSINESSES/

SMALL BUSINESS DETERMINATION

Board staff made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulations may apply to business and small businesses, but as stated above, they will not have a significant adverse economic impact on business and small businesses. Waste tire haulers will complete a more simplified Comprehensive Trip Log for each shipment of tires in lieu of the current Waste Tire Trip Log and Manifest Form.

EFFECT ON COMPETITION WITH OUT-OF-STATE BUSINESS

Board staff has determined that the proposed regulations will not have an adverse economic impact upon the ability of California businesses to compete with out-of-state business.

EFFECT ON CREATION OR ELIMINATION OF JOBS, EXISTING OR NEW BUSINESS IN THE STATE OF CALIFORNIA

Board staff has determined that the proposed regulatory action will not affect: 1) the creation or elimination of jobs within the state of California; 2) the creation of new businesses or the elimination of existing businesses within California; or 3) the expansion of businesses currently doing business with the state.

COST IMPACT ON PRIVATE PERSONS OR ENTERPRISES

Board staff has determined that the adoption of the proposed regulations will not have a cost impact on private persons or enterprises. Cost impacts for the program in general have already been identified in a previous rulemaking. Waste tire haulers, generators, and end use facilities are essentially the only members of the regulated community that are affected by the proposed regulations. There will be no increase in the universe of individuals and businesses presently regulated. There is no cost associated with waste tire haulers, generators, and end use facilities using the "Comprehensive Trip Log." Therefore, the proposed regulations impose no costs on waste tire haulers, generators, or end use facilities, and should not have a significant adverse economic impact on individuals and businesses that comply with the statute and regulations governing waste and used tire hauling.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to:

Claire Miller, Special Waste Division
California Integrated Waste Management Board
P.O. Box 4025
Sacramento, California 95812-4025
(916) 341-6705 phone, (916) 319-319-7574 facsimile
e-mail: cmiller@ciwmb.ca.gov

Back-up contact person to whom inquiries concerning the proposed administrative action may be directed:

Keith Cambridge, Special Waste Division
California Integrated Waste Management Board
P.O. Box 4025
Sacramento, CA 95812-4025
(916) 341-6422 phone, (916) 319-7655 facsimile
e-mail: kcambrid@ciwmb.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rulemaking file, and all information that provides the basis for the proposed regulations, available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. The Final Statement of Reasons will also be made available once it is prepared. Copies may be obtained by contacting Claire Miller at the address or phone number listed above. For more timely access to the proposed text of the regulations, and in the interest of waste prevention, interested parties are encouraged to access the Board's Internet homepage at www.ciwmb.ca.gov/rulemaking

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text -- with changes clearly indicated -- available to the public for at least 15 days before the Board adopts the regulations as revised. Requests for the modified text should be made to the contact person named above. The Board will mail any modified text to all persons who testify at the public hearing; all persons who submit written comments at the public

hearing; all persons whose comments are received during the comment period; and all persons who request notification of the availability of such changes. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.