

STATE OF CALIFORNIA
STATE AND CONSUMER SERVICES AGENCY
CALIFORNIA BUILDING STANDARDS COMMISSION
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Office Use Item No. _____

PARTICIPATION COMMENTS FOR THE NOTICE DATED OCTOBER 2, 2009
Written comments are to be sent to the above address.

WRITTEN COMMENT DEADLINE: NOVEMBER 16, 2009

Date: November 16, 2009

From:

Terry Leveille (unable to e-mail signature, will send via FAX)
Name (Print or type) (Signature)

-- President, TL & Associates; registered lobbyist representing California Tire Dealers Association
Agency, jurisdiction, chapter, company, association, individual, etc.

8740 Bluff Lane Fair Oaks CA 95628
Street City State Zip

I do not agree with:

The Agency proposed modifications As Submitted on Section No. 2505.4

And request that this section or reference provision be recommended:

Approved Disapproved Held for Further Study Approved as Amended

Suggested Revisions to the Text of the Regulations:

CHAPTER 25: TIRE REBUILDING AND TIRE STORAGE

Questions:

1) What constitutes "tire rebuilding plants?" Does this include tire retailers? Tire processors? Tire recyclers? Tire-derived product manufacturers? Landfills? Transfer stations?

2) What is the definition of a tire? Does this include a new tire? A used tire for sale? A scrap tire? A tire product that is stored in chip or shred form? A tire product that is stored in one ton supersacks? A tire product stored in sealed bags ready for wholesale or retail sale?

3) What constitutes "tire storage?" Does this include tires "racked and stacked?" Tires in bins? Tires in trailers? Tires in piles? New and used tires for sale that are stacked in rows outdoors?

4) What timeframe constitutes "tire storage?" Does this mean "anytime?" At the end of the working day? 24 hours?

5) California General Code Provisions, Chapter 1, Division 1, Section 1.11 "Office of the State Fire Marshal," Section 111.2.41.2.4, Request for Alternate Means of Protection, provides for owner/operators to request from local enforcing agencies "approval to use an alternative material, assembly of materials, equipment, method of construction, method of installation of equipment or means of protection."

Does this include local enforcing agency approval of less than a 50-foot buffer between tire storage piles and lot lines or buildings? If so, are the requirements of such a "request" different from the current process wherein local fire authorities allow, on a case-by-case basis, a company to store tires closer to lot lines and buildings than 50-feet?

If the above definitions are not in the California Fire Code, the Office of the State Fire Marshal should hold hearings with stakeholders and affected state and local agencies to discuss and clarify.

If the above definitions are left to the purview of enforcement agencies, such as the California Integrated Waste Management Board or local authorities, and the State Fire Marshal simply codifies standards such as those found in Chapter 25, then the California Tire Dealers Association has a significant problem with Chapter 25, amendment 2505.4 (Distance from lot lines and buildings). See comments below:

Comments:

1) Amendment 2505.4 of Chapter 25 violates Health & Safety Code Section 18930 (a) (4) The proposed building standard is not unreasonable, arbitrary, unfair or capricious, in whole or in part and (6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.

A number of current owner/operators have been granted proximity variances from lot lines and buildings/offices by local enforcement agencies. Those proximity variances in many cases are closer than the Exception allows (i.e., 10-feet from lot lines, 50-feet from buildings). These variances were granted by enforcement agencies based on a variety of factors, including tire pile height, type of lot fencing, fire vehicle access, surrounding land use, etc. Further, the California Integrated Waste Management Board, the state board charged with permitting and enforcing waste tire storage, has allowed such variances. For the state Fire Code to disallow such variances—even in exempting facilities legally permitted prior to January 1, 2011—it would be unfair and require existing businesses to seek larger sites, a prospect that would put some owner/operators out of business.

Furthermore, after January 1, 2011, requiring owner/operators to locate on sites with a 50-foot buffer between tire stacks and offices/buildings or lot lines will necessitate the purchase or leasing of large and prohibitively expensive properties. This requirement, particularly in costly urban areas, will make it uneconomical for tire recycling, tire processing, and tire retail businesses to operate.

2) The California Tire Dealers Association, composed of hundreds of small tire retailers throughout the state, opposes Amendment 2505.4 of Chapter 25, and supports the current practice whereby local enforcement agencies, with State Fire Marshal advisories, determine fire safe distances between tire stacks and offices/buildings or lot lines on a case-by-case basis.

HEALTH & SAFETY CODE SECTION 18930

SECTION 18930. APPROVAL OR ADOPTION OF BUILDING STANDARDS; ANALYSIS AND CRITERIA; REVIEW CONSIDERATIONS; FACTUAL DETERMINATIONS

- (a) Any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the California Building Standards Commission prior to codification. Prior to submission to the commission, building standards shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:
- (1) The proposed building standards do not conflict with, overlap, or duplicate other building standards.
 - (2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.
 - (3) The public interest requires the adoption of the building standards.
 - (4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.
 - (5) The cost to the public is reasonable, based on the overall benefit to be derived from the building standards.
 - (6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.

- (7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.
 - (A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.
 - (B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.
- (8) The format of the proposed building standards is consistent with that adopted by the commission.
- (9) The proposed building standard, if it promotes fire and panic safety as determined by the State Fire Marshal, has the written approval of the State Fire Marshal.