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9 **STATE OF CALIFORNIA**

10 **DEPARTMENT OF RESOURCES RECYCLING & RECOVERY**

11 **In the Matter of:**

12 **WATTS LABOR COMMUNITY ACTION**

13 **COMMITTEE, Property owner,**

14 **and**

15 **D & M TIRE SOLUTIONS, LLC.**

16  
17 **TPID NO. 1668808**

18 **RESPONDENTS.**  
19  
20

**ADMINISTRATIVE COMPLAINT  
FOR WASTE TIRE STORAGE  
ADMINISTRATIVE PENALTIES**

**PUBLIC RESOURCES CODE  
SECTION 42850, ET SEQ.**

**AGENCY NO: 2012-011133-ADC**

21 **INTRODUCTION**

22  
23 This Administrative Complaint for Waste Tire Storage Administrative Penalties is  
24 issued by the California Department of Resources Recycling and Recovery  
25 (CALRECYCLE) to WATTS LABOR COMMUNITY ACTION COMMITTEE, Property  
26 Owner, and D & M TIRE SOLUTIONS, LLC (RESPONDENTS) seeking sixteen  
27 thousand seven hundred and fifty dollars (\$16,750.00).

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1 The California Integrated Waste Management Board (CIWMB) is now  
2 CALRECYCLE. CALRECYCLE succeeded to CIWMB's authority on January 1, 2010,  
3 pursuant to Public Resources Code (PRC) section 40401(a)(1). PRC section 42850(b)  
4 authorizes CALRECYCLE to issue a complaint to any person that may be  
5 administratively liable. This complaint is so issued based on the following facts.

6  
7 **STATEMENT OF FACTS**

8 1. CALRECYCLE has authority to inspect, permit, regulate and conduct  
9 enforcement actions against Waste Tire (WT) Facilities within the State of California  
10 under PRC section 42800, et seq., and attendant regulations contained in Title 14 of the  
11 California Code of Regulations (CCR).

12 2. PRC section 42834 states that on and after July 1, 1994, it is unlawful to  
13 direct or transport waste tires to a minor waste tire facility or to accept waste tires at a  
14 minor waste tire facility unless the operator has obtained a minor waste tire facility  
15 permit.

16 3. Title 14 CCR section 17350 et seq. requires operators of permitted or  
17 unpermitted WT Facilities to comply with storage and safety requirements, including, but  
18 not limited to requirements regarding fire standards, site security, and vector control.

19 4. RESPONDENT D & M TIRE SOLUTIONS, LLC is an unpermitted WT  
20 Facility located at 740 East 111<sup>th</sup> Place, Los Angeles, California 90059 (the site).

21 5. At no time between August 18, 2011, and January 17, 2012, did  
22 RESPONDENT D & M TIRE SOLUTIONS, LLC possess a minor WT Facility permit for  
23 the site.

24 6. On August 18, 2011, City of Los Angeles Waste Tire Grantee Inspector,  
25 Jerry Weir, conducted an inspection of the site and observed approximately 4,000  
26 waste tires on site, as documented in Inspection Report # I1-1163439. A Notice of  
27 Violation (NOV) was issued and RESPONDENT D & M TIRE SOLUTIONS, LLC was  
28 given 30 days to comply. RESPONDENT D & M TIRE SOLUTIONS, LLC was also

1 advised to call CALRECYCLE for a permit application.

2 7. On October 11, 2011, a re-inspection was conducted by Inspector Weir  
3 and City of Los Angeles Waste Tire Grantee Inspector, D. Pusateri. As documented in  
4 Inspection Report # I1-1163423, Inspectors Weir and D. Pusateri observed  
5 approximately 4,360 waste tires on the site. A NOV was issued to RESPONDENT D &  
6 M TIRE SOLUTIONS, LLC and the matter was referred to CALRECYCLE enforcement.

7 8. On December 2, 2011, Cleanup and Abatement Order 2011-010999-CAO  
8 (CAO) was issued and delivered by United States Postal Service (USPS) certified mail  
9 to RESPONDENTS on December 5, 2011. The CAO directed RESPONDENTS to  
10 remove all waste tires from the premises or obtain a minor waste tire facility permit  
11 within thirty (30) days from the date of service of the CAO.

12 9. On January 17, 2012, CALRECYCLE Inspector, Steve Dolan, conducted  
13 an inspection of the site to ensure compliance with the CAO. Inspector Dolan observed  
14 approximately 2,528 waste tires on the site, as documented in Inspection Report # I1-  
15 1169577. RESPONDENT D & M TIRE SOLUTIONS, LLC was in violation of PRC  
16 section 42834, accepting waste tires without having a minor WT Facility permit, and in  
17 violation of the CAO, which required RESPONDENTS to maintain an inventory of waste  
18 tires below 500 until a WT Facility permit was obtained. As documented in Inspection  
19 Report I1-1169577, RESPONDENT D & M TIRE SOLUTIONS, LLC was also in  
20 violation of Title 14 CCR section 18461, which requires end-use facilities to retain  
21 Manifest Forms at their place of business for three years, and have such Manifest  
22 Forms be made available for inspection at the request of CALRECYCLE or any  
23 representative of CALRECYCLE.

24  
25 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

26  
27 10. For 13 days, from the time period between January 4, 2012, and January  
28 17, 2012, RESPONDENTS failed to comply with the terms set forth in the CAO, thereby

1 violating PRC section 42845, which requires any person, upon order of CALRECYCLE,  
2 to clean up, abate or otherwise take remedial action at a WT Facility.

3 11. RESPONDENT D & M TIRE SOLUTIONS, LLC violated PRC section  
4 42834 and Title 14 CCR section 18420 by operating a minor WT Facility without first  
5 obtaining a minor waste tire facility permit. At no time between August 18, 2011 and  
6 January 17, 2012, was a waste tire facility permit issued or in effect for the site.

7 12. RESPONDENT D & M TIRE SOLUTIONS, LLC violated Title 14 CCR  
8 section 18459.3 by failing to retain Manifest Forms (also known as Comprehensive Trip  
9 Logs (CTL's)) at the site and failing to make available upon request by CALRECYCLE a  
10 copy of its Manifest Forms.

### 11 PENALTIES

12  
13 13. RESPONDENTS are liable for administrative penalties for negligent and  
14 intentional violations.

15 14. CALRECYCLE's authority to assess administrative penalties against  
16 RESPONDENTS for intentional violations is set forth in PRC section 42850.1(a) and (b),  
17 which states:

18 (a) Any person who intentionally violates any provision of this chapter, or  
19 any permit, rule, regulation, standard, or requirement issued or adopted  
20 pursuant to this chapter, shall, upon conviction, be punished by a fine not  
21 to exceed ten thousand dollars (\$10,000) for each day of violation, by  
imprisonment in the county jail for not more than one year, or by both that  
fine and imprisonment.

22 (b) (1) Any person who intentionally violates any provision of this chapter,  
23 or any permit, rule, regulation, standard, or requirement issued or adopted  
24 pursuant to this chapter, is liable for a civil penalty not to exceed ten  
thousand dollars (\$10,000), for each violation of a separate provision or,  
for continuing violations, for each day that the violation continues.

25 15. CALRECYCLE's authority to assess administrative penalties against  
26 RESPONDENTS for negligent violations is set forth in PRC section 42850(a) and (b),  
27 which states:

28 (a) Any person who negligently violates any provision of this chapter, or  
any permit, rule, regulation, standard, or requirement issued or adopted

1 pursuant to this chapter is liable for a civil penalty of not less than five  
2 hundred dollars (\$500) or more than five thousand dollars (\$5,000), for  
3 each violation of a separate provision or, for continuing violations, for each  
4 day that the violation continues.

(b) Liability under this section may be imposed in a civil action or liability  
may be imposed administratively pursuant to this article.

5 16. The penalty table set forth in Title 14 CCR section 18429 authorizes an  
6 administrative penalty of up to \$1,000.00 for every day the intentional violation  
7 continues after the deadline set forth in the CAO against unpermitted WT Facilities that  
8 accumulate between 500 and 4,999 waste tires. This administrative penalty is multiplied  
9 by a risk factor between 1.00 to 1.50 to account for the threat to public health and safety  
10 and the environment.

11 17. The penalty table set forth in Title 14 CCR section 18464 authorizes an  
12 administrative penalty of up to \$500.00 for each offense constituting a failure to retain  
13 records (Manifest Forms) and/or a failure to have records be made available at the  
14 place of business during normal working hours for inspection and photocopy.

15 18. In determining an appropriate administrative penalty for RESPONDENTS,  
16 as required by Title 14 CCR section 18465, CALRECYCLE has taken into consideration  
17 the following factors:

- 18 (1) The nature, circumstances, extent, and gravity of the violation.
- 19 (2) Evidence that the violation was willful or negligent.
- 20 (3) The good or bad faith exhibited by the party.
- 21 (4) History of violation of the same or similar nature.
- 22 (5) The extent to which the party has cooperated with the Department  
23 (CalRecycle) in remediating the violation.
- 24 (6) The extent that the party has mitigated or attempted to mitigate any  
25 damage or injury caused by his or her violation.
- 26 (7) Evidence of any financial gain resulting from the violation.
- 27 (8) Such other matters as justice may require.

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1 **days will be deemed a waiver of your rights to a hearing.**

2 Pursuant to the above referenced Public Resources Code and Government Code  
3 sections, discovery requests by any party must be made within thirty days after the  
4 service of this Administrative Complaint for Waste Tire Storage Administrative  
5 Penalties.

6  
7 Dated this 5<sup>th</sup> day of April 2013.

  
MARTHA PEREZ  
Staff Counsel

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## DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

### RIGHT TO A HEARING

You are hereby notified that that you are entitled to request a hearing to refute the allegations against you contained in the ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES (Administrative Complaint). The enclosed REQUEST FOR HEARING/NOTICE OF DEFENSE form (Notice of Defense), when signed by or on behalf of the Respondent and returned to the Department of Resources Recycling and Recovery (CalRecycle) within 15 days of receipt of the Administrative Complaint , will acknowledge service of the Administrative Complaint and constitute a notice of defense. **If you wish to have a hearing on this matter, you must complete and return the enclosed Notice of Defense to the address indicated on the form within 15 days of receipt of the Administrative Complaint. Failure to complete and return the Notice of Defense within 15 days will be deemed a waiver of your right to a hearing.**

If you request one, a hearing will be conducted before a Hearing Officer, a CalRecycle employee that does not work on or advise the tire programs, at one of our offices or other locations throughout the State, upon the charges made in the Administrative Complaint.

Please refer to the attached document entitled "Representing Yourself in a CalRecycle Tire Hearing" for further guidance on hearing procedures and basic information on representing yourself at a CalRecycle tire hearing.



1. You are entitled to review the evidence being used against you and request a list of witnesses by applying to CalRecycle's attorney.
2. You may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you.
3. You are entitled, upon request, to be provided with the assistance of an interpreter, if you or your witnesses do not proficiently speak or understand the English language. If you require the assistance of an interpreter, timely notice of this fact should be given to CalRecycle's Hearing Clerk, so appropriate arrangements can be made. Generally, the cost is paid by the party requesting an interpreter, however, the Hearing Officer may order CalRecycle to pay if you cannot.
4. You are hereby notified that, pursuant to the provisions of 14 CCR section 17050 et seq., the violations alleged against you may cause you to be placed on CalRecycle's Unreliable Contractors, Subcontractors, Borrowers, and Grantees list. Placement on this list may prohibit you from obtaining contracts, loans, or grants from CalRecycle for up to three years.
5. Continuances are not favored. If you need a continuance, immediately submit a written request to Hearing Clerk- TIR, CalRecycle Legal Office, 801 K Street, MS 19-03, Sacramento, California 95814, by fax to 916-322-8768, or by e-mail to [HearingClerk.TIR@CalRecycle.ca.gov](mailto:HearingClerk.TIR@CalRecycle.ca.gov). Your written request for a continuance will be forwarded to the Hearing Officer for decision. Requests without good cause will be denied.

STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

In the matter of:

**REQUEST FOR A HEARING/NOTICE OF DEFENSE**

AGENCY NO: \_\_\_\_\_ - \_\_\_\_\_ -ADC

TPID NO: \_\_\_\_\_

RESPONDENTS.

I, \_\_\_\_\_, in the above-entitled proceeding, acknowledge receipt of a copy of the ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES.

I hereby:

( ) Request a hearing.

The basis for my request is the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Further, I hereby:

- ( ) Object to the Accusation for failure to state acts or omissions upon which the agency may proceed.
- ( ) Object to the form of the Accusation in that the transaction cannot be identified or a defense prepared.
- ( ) Present new matter by way of defense.
- ( ) Admit the Accusation in whole or in part.
- ( ) Object to the Accusation on the basis that compliance with the requirements of a regulation would result in a material violation of a regulation enacted by another department affecting substantive rights.

1 All correspondence concerning this proceeding should be sent to Respondent at the  
2 following address:  
3 (If you are represented by an attorney, all correspondence concerning this matter will be sent  
4 to the attorney.)  
5

6 Address: \_\_\_\_\_

7 City:

State:

Zip Code:

8 Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

9  
10  I hereby agree to accept service of all correspondence by email.

11  
12 Signature: \_\_\_\_\_

13 Date: \_\_\_\_\_

14 Please send to:

15 CalRecycle Legal Office  
16 Attention: Gloria Bell  
17 P.O. Box 4025, MS 24-B  
18 Sacramento, CA 95812-4125  
19  
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Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax (optional): \_\_\_\_\_  
Email (optional): \_\_\_\_\_

**STATE OF CALIFORNIA**  
**DEPARTMENT OF RESOURCES RECYCLING & RECOVERY**

In the matter of: \_\_\_\_\_ ) **REQUEST FOR DISCOVERY**  
\_\_\_\_\_ )  
\_\_\_\_\_ ) (Government Code Section 11507.6)  
\_\_\_\_\_ ) **RESOURCES CODE SECTION 42960**  
\_\_\_\_\_ )  
TPID NO: \_\_\_\_\_ ) **AGENCY NO: \_\_\_\_ - \_\_\_\_ - \_\_\_\_**  
\_\_\_\_\_ )  
\_\_\_\_\_ )

TO: The Department of Resources Recycling & Recovery ("CALRECYCLE"), under Government Code Section 11507.6, I, \_\_\_\_\_ request the following:

1. The names and addresses of all witnesses to the extent known by you, including, but not limited to, those you intend to call to testify at the hearing, and
2. An opportunity to inspect and copy all of the following matters under Government Code Section 11507.6(a)-(f) that are in your possession, custody or control:
  - (a) A statement of any person, or regarding any entity named in the initial pleading when it is claimed in the pleading that any respondent's act or omission regarding this person or entity is the basis for this administrative proceeding;
  - (b) A statement pertaining to the subject matter of the pleading made by any party to another party or person;

(c) Statements of witnesses proposed to be called to testify and of other persons having personal knowledge of the acts, omissions, or events that are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including but not limited to reports and things that you propose to offer in evidence;

(e) Any other writing or thing that is relevant and would be admissible in evidence.

(f) Investigative reports made by or on behalf of you or any other party pertaining to the subject matter of the proceedings, to the extent that these reports:

(1) Contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions, or events that are the basis for the proceedings, or

(2) Reflect matters perceived by the investigator in the course of his or her investigation, or

(3) Contain or include by attachment any statement or writing described in (a) to (e) above, or a summary thereof.

3. This request is not intended to require inspection, copying or production of any writing which is privileged from disclosure by law or protected as attorney's work product.

4. This is a continuing request for discovery of any of the above stated matters that may come into your possession at any time before the hearing.

Specifically, in response to the discovery requested above, pursuant to Government Code 11507.6, I request the following evidence relevant to this matter:

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Please send completed form to:**

**CalRecycle Legal Office  
Attention: Gloria Bell  
P.O. Box 4025, MS 24B  
Sacramento, Ca 95812-4125**



## DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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### LEGAL OFFICE

801 K STREET, MS 19-03, SACRAMENTO, CALIFORNIA 95814 • (916) 327-0089 • [WWW.CALRECYCLE.CA.GOV](http://WWW.CALRECYCLE.CA.GOV)

## Representing Yourself in a CalRecycle Tire Hearing

CalRecycle is providing this information to help you prepare for your administrative hearing. This information is not a substitute for having an attorney. We hope this information will help you better understand the process and prepare for the hearing.

### How Do I Request A Hearing?

You have received this because you have been served with either a Statement of Issues or Administrative Complaint (Accusation) issued by the Waste Permitting, Compliance, and Mitigation Division of the Department of Resources Recycling and Recovery (CalRecycle). You may request a hearing to have a Hearing Officer hear your side of the matter before your permit or registration is denied, suspended or revoked, or before penalties are assessed against you. If you do not request a hearing, a Default Decision will be issued ordering the denial, suspension, or revocation of your permit or registration or ordering you to pay the penalty amount requested in the Accusation. If you wish to request a hearing, you must complete and send the Request For Hearing / Notice Of Defense to the address designated on that form. On that form you must state the reason you are requesting a hearing. You must provide enough information for CalRecycle to understand the facts, defenses, and other issues you hope to have addressed at the hearing.

### What Will My Hearing Be Like?

Your hearing will be very similar to a trial in court, with witnesses, exhibits and rules of evidence. A Hearing Officer will preside under a delegation of authority from CalRecycle's director. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. However, an attorney may be better able to present your side.

When the hearing begins, each side may present an opening statement. This tells the Hearing Officer what that side intends to prove. Each side can then offer relevant evidence to prove its case.

Evidence can be testimony taken under oath at the hearing or it can be certain kinds of documents, such as business records. You must prove that the documents you submit are authentic. This means that you must be able to show that a document actually is what you say it is; usually this is accomplished through witness testimony.

CalRecycle usually presents its evidence first. CalRecycle's attorney will ask its witness questions (direct examination). When the attorney is finished, it will be your turn to ask questions of that witness (cross-examination). CalRecycle's attorney will have a second chance to ask questions (redirect) and then you will have a second chance (recross).

After CalRecycle has presented its witnesses, it will be your turn. You may make a statement yourself and call your witnesses. As you finish with each of your witnesses (and your testimony), the CalRecycle attorney will cross-examine. As stated before, you will have a second chance to ask questions of each witness. Even if you choose not to testify, CalRecycle's attorney may cross-examine you.

After you have presented your case, CalRecycle may call rebuttal witnesses. Rebuttal witnesses may only testify to issues you brought up in your case. If CalRecycle calls rebuttal witnesses, you may be allowed to call additional witnesses to address the issues discussed by rebuttal witnesses. Few hearings involve rebuttal witnesses.

Remember: Before the hearing closes, you must submit all the evidence you want the Hearing Officer to consider.

After all testimony has been heard, each side can make a closing argument. Usually CalRecycle goes first; you go next. The party that goes first has the opportunity to make the last comments.

Closing argument is your chance to sum up the evidence and tell the Hearing Officer why you should prevail in your case. It can address only those facts brought out in testimony of witnesses or in documents received into evidence. In some cases, the Hearing Officer may want the parties to submit written, instead of oral, argument. If so, a schedule will be set up for the written arguments.

### What Do I Need To Prove?

If a license, permit or registration for which you applied is being denied, the burden is on you to prove your side. You must prove you meet the qualifications for the license, permit or registration.

If you already have a license, permit or registration against which CalRecycle is imposing discipline, CalRecycle has the burden of proof. This means that CalRecycle must establish that you violated the laws or regulations charged in the Accusation or Statement of Issues.

Even when CalRecycle has the burden of proof, you should prepare to offer evidence of your good character and conduct, mitigation, rehabilitation and evidence refuting the charges, as appropriate.

### May I See CalRecycle's Evidence Against Me?

CalRecycle's evidence is also called discovery. You are entitled to request discovery of the information CalRecycle has to prove the charges made against you or enable you to mount a defense against them. A Request For Discovery form is available on CalRecycle's website, or may be obtained by contacting CalRecycle's attorney or Hearing Clerk. Simply send the completed Request for Discovery to CalRecycle's attorney if you wish to obtain a copy of the investigative files and any other documents or relevant information CalRecycle has regarding your case. You may have to pay for copies. You also have a right to receive a witness list.

Generally, you must request "discovery" within 30 days of receiving the initial Accusation or Statement of Issues, or within 15 days of any supplemental Accusations or Statements of Issues. In some cases, these times may be shorter. Be sure to read the documents you receive to verify the time you have to request discovery.

CalRecycle has the same rights to get information from you. You may also be served with, or have included in the paperwork received already, a Request For Discovery on behalf of CalRecycle. You must make copies of the requested information available to CalRecycle by the date stated in the Request for Discovery.

## What Kind of Evidence Will I Need For the Hearing?

Depending on your case, you may want to bring witnesses who know about the issues involved with the charges against you. If there are documents, such as contracts, business records or checks that help prove your side, try to bring the original and three copies. You may bring photographs or other items that are relevant to your defense. Items you want to be considered must be left with the Hearing Officer. Generally, you may substitute copies of those items in place of the originals.

Documents and photographs must be authenticated. This is typically done through witness testimony, during which your witness, or yourself, if you choose to testify, will need to explain to the Hearing Officer what the document is, how the witness reliably knows what it is, and how it is relevant to your case.

## How Do I Get Records From a Business?

If you are a party to a hearing, you have the right to subpoena from individuals, businesses and government agencies relevant records or other things to be produced at the hearing. CalRecycle has a subpoena form available for download on its website, and a copy may also be mailed or emailed to you upon request. You must arrange to pay any required fees and have someone else serve the subpoenas. Only CalRecycle Hearing Officers or attorneys licensed in California acting on behalf of a party may sign a subpoena. If you are proceeding without an attorney, contact CalRecycle's Hearing Clerk to obtain a blank subpoena form signed by a Hearing Officer. See also California Code of Civil Procedure, sections 1985-1985.4 for other important information.

## How Do I Get a Witness to Come to the Hearing?

A witness can come voluntarily to the hearing. However, a subpoena protects your right to have that person present. You may obtain the subpoena form by downloading it from CalRecycle's website, or by requesting that a copy be mailed or emailed to you. You must use the subpoena to compel the attendance of persons whose testimony is relevant to your case, unless that person agrees to appear voluntarily on your behalf. Witnesses are entitled to paid reimbursement of their time. See Government Code sections 11450.05, 11450.50, 68092.5-68093, and 68096.1-68097.10. You must arrange to pay required fees and have someone else serve the subpoenas. Only CalRecycle Hearing Officers or attorneys licensed in California acting on behalf of a party may sign a subpoena. If you are proceeding without an attorney, contact CalRecycle's Hearing Clerk to obtain a blank subpoena form signed by a Hearing Officer. See also California Code of Civil Procedure, sections 1985-1985.4 for other important information.

## Is It OK to Bring Letters Instead of Witnesses?

Some letters and other documents may be admitted in evidence for limited purposes, but generally it is better to bring witnesses who can help present your side of the case and answer any questions raised. The Hearing Officer will not speak with witnesses, except at the hearing itself. If you do choose to offer letters, declarations or other documents, make sure you understand what you must do to get them admitted in evidence. (For instance, see the discussion on authenticating documents above.)

*Remember: This hearing is your chance to tell the Hearing Officer your side. It is important to have your witnesses present at the hearing to testify.*

## If I Forget Something, Can I Send It Later to the Hearing Officer?

Your chance to present evidence is at the hearing. Only in rare cases will the Hearing Officer allow you to send evidence later.

## Is There a Way To Settle This Without a Hearing?

Cases often settle without going to hearing. Contact the CalRecycle attorney to see if you can work something out.

## What If I Can't Be There On The Day Set?

You must show good cause to change a hearing date. If you cannot attend on the date and at the time shown, you must contact CalRecycle as soon as you know of the problem. To request a change of date, you must file a written request with the Hearing Clerk in CalRecycle's Legal Office, with a copy to CalRecycle's attorney, explaining the reasons for the change. The sooner you make your request, the more likely it will be granted.

*Remember: You must file a timely Notice of Defense in order to have a hearing.*

## Where Will The Hearing Take Place?

Hearings are scheduled at the CalRecycle office located closest to your residence or the location at which the transactions or events providing the basis for the Accusation or Statement of Issues occurred. CalRecycle's office locations are in Sacramento, Los Angeles, Riverside and San Diego. In some circumstances, CalRecycle may conduct a hearing at a location other than a CalRecycle office. If you feel that a different location would work better for you please contact CalRecycle's Hearing Clerk as early as possible to request a location change. CalRecycle reserves the right to deny the request upon consideration of issues including, without being limited to, the ability of CalRecycle staff and the Hearing Officer to travel to the location, and any fees that may be incurred for travel plans already made by CalRecycle staff, the Hearing Officer, and CalRecycle's witnesses.

## What If I Don't Attend?

If you request a hearing and do not attend the hearing, CalRecycle can still proceed with the case against you. (If you do not request a hearing, CalRecycle will issue a Default Decision against you.)

## What If I Need An Interpreter?

If you or a witness need a sign or language interpreter, immediately contact the CalRecycle attorney or Hearing Clerk so that a certified interpreter can be provided. Normally, it is not sufficient to bring a friend or relative to interpret for you.

## Will The Hearing Location Be Accessible To People With Disabilities?

Hearing locations are to be accessible to persons with disabilities. However, check in advance with CalRecycle's Hearing Clerk to assure accessibility. In addition, if you know persons who plan to attend have special needs that require reasonable accommodation, please contact CalRecycle's Hearing Clerk as soon as possible, so arrangements can be made.

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## What Is The Contact Information For CalRecycle's Hearing Clerk?

All tire hearing papers must be filed with the Hearing Clerk in CalRecycle's Legal Office at the street address, fax number or email address below.

Hearing Clerk- TIR  
CalRecycle Legal Office  
801 K Street, MS 19-03  
Sacramento, CA 95814  
916-327-0089  
916-322-8768 FAX  
[HearingClerk.TIR@CalRecycle.ca.gov](mailto:HearingClerk.TIR@CalRecycle.ca.gov)



## DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

### LEGAL OFFICE

801 K STREET, MS 19-03, SACRAMENTO, CALIFORNIA 95814 • (916) 327-0089 • WWW.CALRECYCLE.CA.GOV

## CalRecycle Tire Hearing Subpoena Information

CalRecycle Tire Hearing Subpoenas cannot be used in CalRecycle Division of Recycling hearings.

### Can I subpoena witnesses to testify at the hearing?

Subpoenas may be issued to require witnesses to attend and testify at CalRecycle tire hearings. Witnesses are entitled to payment for their time and travel. Please see "I have received a subpoena to be a witness in a case. Can I be paid?" below.

### I want to receive copies of records held by someone else for my administrative hearing. How do I get them?

You are entitled to request discovery of the information CalRecycle has to prove the charges made against you or enable you mount a defense against them. Please see *Representing Yourself in a CalRecycle Tire Hearing* for more information.

You may also subpoena records from individuals, businesses, and government agencies to be produced at your hearing. A subpoena duces tecum means "bring with you under penalty of law" and compels the party served to bring records that they have to the hearing and to verify that the documents or records have not been altered. That may be done by declaration or by direct testimony, as you require.

### The form on the internet is not signed. Can I sign it?

Only CalRecycle Hearing Officers or attorneys licensed in California acting on behalf of a party may sign a subpoena. If you are proceeding without an attorney, contact CalRecycle's Hearing Clerk to obtain a blank subpoena form signed by a Hearing Officer.

Hearing Clerk- TIR  
CalRecycle Legal Office  
801 K Street, MS 19-03  
Sacramento, CA 95814  
916-327-0089  
916-322-8768 FAX  
HearingClerk.TIR@CalRecycle.ca.gov

### What laws should I look at before sending a subpoena or a subpoena duces tecum?

Code of Civil Procedure sections 1985-1987

Government Code sections 11450.05-11450.50, 68092.5-68093, and 68096.1-68097.10.

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## I have received a subpoena to be a witness in a case. Can I be paid?

Yes, according to Government Code Sections 11450.05 and 11450.50, you may request witness fees and mileage actually traveled both ways. You may request payment in advance of the hearing from the party at whose request the subpoena or subpoena duces tecum is issued, which appears in item 1 of the CalRecycle Tire Hearing Subpoena form. See Government Code sections 11450.05, 11450.50, 68092.5-68093, and 68096.1-68097.10.