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STATE OF CALIFORNIA

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

In the matter of: JORGE JUAREZ DBA LA TIRE DISPOSAL TPID NO: 1739239-01 RESPONDENT	ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES PUBLIC RESOURCES CODE SECTION 42950, ET SEQ. AGENCY NO: 2013-011157-ADC

INTRODUCTION

This Administrative Complaint For Waste Tire Hauler Administrative Penalties is issued by the California Department of Resources Recycling and Recovery to Jorge Juarez dba LA Tire Disposal (RESPONDENT) seeking $4,975.00.

The California Integrated Waste Management Board (CIWMB) is now the California Department of Resources Recycling and Recovery (CALRECYCLE). CALRECYCLE succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code (PRC) section 40401(a)(1). Pursuant to PRC section 42851(a), CALRECYCLE is authorized to issue an administrative accusation to a person on whom civil liability may be imposed. This Administrative Complaint is so issued based on the following facts.

STATEMENT OF FACTS

1. CALRECYCLE has authority to regulate and conduct enforcement actions regarding Waste Tire Facilities and Waste and Used Tire Haulers within the State of California under PRC sections 42800 et seq., 42950 et seq., and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

2. PRC section 42951(a) requires that every person who engages in the transportation of waste or used tires shall hold a valid waste and used tire hauler registration, unless exempt as specified in section 42954.

3. RESPONDENT has been a registered waste and used tire hauler since February, 2004.

4. Pursuant to 14 CCR section 18455, each Waste and Used Tire Hauler Registration expires annually on January 1 of the following calendar year, and CALRECYCLE must receive a new application from any hauler who wishes to continue to operate as a hauler no later than 45 days prior to the January 1 expiration date.

5. Pursuant to 14 CCR section 18454(c), "The initial waste tire hauler registration is valid from the date of issuance to January 1 of the following year."

6. Pursuant to 14 CCR section 18454(d), "The waste tire hauler is not authorized to haul used or waste tires after the January 1 expiration date unless the waste tire hauler has applied to renew the waste tire hauler registration prior to the expiration and has received the Department issues renewal registration card(s) and vehicle decal(s)."

8. Between January 1, 2013, and February 21, 2013, RESPONDENT either transported or allowed the transportation of at least five loads of ten or more waste/used tires while not having a valid 2013 Waste Tire Hauler Registration issued by CALRECYCLE.

9. On or about October 1, 2012, CALRECYCLE staff mailed Waste Tire Hauler Registration Renewal notices to all registered waste tire haulers, along with a "Zero Tolerance" letter regarding the hauling of waste/used tires without holding a current registration. RESPONDENT was sent their renewal notification and "Zero Tolerance" letter at this time.

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10. RESPONDENT failed to submit a Waste Tire Hauler Registration prior to January 1, 2013, that would allow him to haul for the 2013 calendar year.

11. On January 3, 2013, CALRECYCLE sent RESPONDENT a letter advising him not to haul waste or used tires until he renewed his tire hauler registration. The following day, January 4, 2013, CALRECYCLE staff attempted to contact RESPONDENT by phone, but no person answered.

12. On January 10, 2013, RESPONDENT faxed his Waste Tire Hauler Registration Application (2013 Application) renewal to CALRECYCLE. Since RESPONDENT had changed addresses, a new waste tire surety bond rider was required, before CALRECYCLE could process the Application. On February 22, 2013, RESPONDENT faxed the bond rider documentation to CALRECYCLE. The 2013 Application was processed that same day, and RESPONDENT was promptly mailed the 2013 decals and registration certificates for his vehicles.

13. On March 25, 2013, a review of the Waste Tire Management System (WTMS) revealed that RESPONDENT transported at least five loads of ten or more waste or used tires prior to submitting his 2013 Application, in violation of PRC section 42951(a), as shown in the table below.

Comprehensive Trip Log	Violation	Passenger Tire Equivalents	Date of Violation
4698017-A	Unregistered Hauling, 41-100 waste/used tires	74	January 4, 2013
4698029-A	Unregistered Hauling, 41-100 waste/used tires	60*	January 28, 2013
4698029-B	Unregistered Hauling, more than 100 waste/used tires	127*	February 1, 2013
4698017-B	Unregistered Hauling, 41-100 waste/used tires	46*	February 5, 2013
4698029-C	Unregistered Hauling, 21-40 waste/used tires	29*	February 5, 2013

***Conversion Factor – number of tons x 100 tires/ton = number of passenger tire equivalents**

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ALLEGATIONS OF SPECIFIC VIOLATIONS

14. CALRECYCLE is requesting the sum of $4,975.00 in waste tire hauler administrative penalties, pursuant to PRC section 42962(c), based on the above-mentioned facts and for the following violations as more specifically set forth in the foregoing paragraphs:

a. RESPONDENT violated PRC section 42951(a) by transporting or allowing the transportation of at least five loads of ten or more waste or used tires while not in possession of a valid 2013 Waste Tire Hauler Registration.

PENALTIES

15. CALRECYCLE's authority to assess administrative penalties against RESPONDENT as a waste and used tire hauler is set forth in PRC section 42962(c) and Title 14 CCR section 18463. Pursuant to PRC section 42962(c):

> In addition to the civil penalty that may be imposed pursuant to subdivision (a), [CALRECYCLE] may impose civil penalties administratively in an amount not to exceed five thousand dollars ($5,000) for each violation of a separate provision or for continuing violations for each day that violation continues, on any person who intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued adopted pursuant to this chapter. . .

Title 14 CCR section 18463, provides in relevant part:

> Any waste tire generator, end-use facility, or waste tire hauler, or any party or person who commits any of the following acts shall be liable for a civil penalty:
>
> (a) Intentionally, or negligently violates any permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the Public Resources Code relating to the generation, transportation or disposal of used or waste tires.
>
> (b) The aiding or abetting, or allowing of any violation, or noncompliance with any permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the Public Resources Code relating to the generation, transportation or disposals of used or waste tires.

(c) Any violation of, or noncompliance with any order issued by [CALRECYCLE] or by a hearing officer or a court relating to the generation, transportation or disposal of used or waste tires.

(d) Any false statement, misrepresentation, or omission of a significant fact or other required information in the application for a waste tire hauler registration, Manifest Form, Unregistered Hauler & Comprehensive Trip Log Substitution Form, or in information regarding these matters subsequently reported to [CALRECYCLE].

Furthermore, Title 14 CCR section 18464 allows CALRECYCLE to impose administrative penalties in accordance with the penalty table therein.

16. As required by Title 14 CCR section 18465, in determining an appropriate administrative penalty for RESPONDENT, CALRECYCLE has taken into consideration the following factors:

(1) The nature, circumstances, extent, and gravity of the violation.

(2) Evidence that the violation or violations was willful or negligent.

(3) The good or bad faith exhibited by the party.

(4) History of violation of the same or similar nature.

(5) The extent to which the party has cooperated with the CalRecycle in remediating or injury caused by his or her violation.

(6) The extent that the party has mitigated or attempted to mitigate any damage or injury caused by his or her violation.

(7) Evidence of any financial gain resulting from the violation.

(8) Such other matters as justice may require.

17. Accordingly, CALRECYCLE hereby requests that a waste tire hauler administrative penalty be assessed against RESPONDENT in the sum of $4,975.00.

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RIGHT TO HEARING

You are hereby notified that pursuant to the provisions of PRC section 42961.1, and Government Code section 11505 that you are entitled to a hearing to refute the allegations against you contained in this ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES. **If you wish to have a hearing on this matter, you must complete and return the enclosed REQUEST FOR HEARING/ NOTICE OF DEFENSE to our Legal Office within 15 days of receipt of this Administrative Complaint. Failure to complete and return the REQUEST FOR HEARING/NOTICE OF DEFENSE within 15 days will be deemed a waiver of your right to a hearing.**

Pursuant to the above referenced Public Resources Code and Government Code sections, discovery requests by any party must be made within 30 days after the service of this ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES.

Dated this 12th day of May, 2014.

HEATHER L. HUNT
Staff Counsel III

STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

In the matter of: TPID NO: _____ RESPONDENTS.	**REQUEST FOR A HEARING/NOTICE OF DEFENSE** AGENCY NO: _____-_____-ADC

I, _____, in the above-entitled proceeding, acknowledge receipt of a copy of the _____
(Fill in full title of Statement of Issues or Administrative Complaint [Accusation].)
_____.

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.

All correspondence concerning this proceeding should be sent to Respondent at the following address:

(If you are represented by an attorney, all correspondence concerning this matter will be sent to the attorney.)

Address:

City: State: Zip Code:

Telephone: Email:

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

Signature:_____

Date:_____

Please send to:

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

CalRecycle

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 HAULER 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. Your written request for a continuance will be forwarded to the Hearing Officer for decision. Requests without good cause will be denied.

CalRecycle

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

LEGAL OFFICE

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

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

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.

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.

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.

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:

_____

_____

_____

_____

_____

Signature: _____

Date: _____

Please send completed form to:

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