

1 ELLIOT BLOCK SBN 116999
Chief Counsel
2 HEATHER L. HUNT SBN 225861
Staff Counsel III
3 Attorneys for Complainant
4 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY
1001 I Street, 24th Floor
5 P. O. Box 4025
6 Sacramento, CA 95812-4025
Telephone: (916) 341- 6068
7 Facsimile: (916) 319-7677

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9 STATE OF CALIFORNIA

10 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:

12 RAFAELENO TIRES.

13 TPID NO: 1307272

14 RESPONDENT.

} ADMINISTRATIVE DECISION
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES,
PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

15 AGENCY No: 2011-011126-ADC
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18 **INTRODUCTION**

19 The California Department of Resources Recycling and Recovery (CALRECYCLE)
20 served an Administrative Complaint for Waste Tire Hauler Administrative Penalties and
21 Request for Hearing on RAFAELENO TIRES (RESPONDENT), on September 3, 2011,
22 RESPONDENT did not file a Request for Hearing. The matter shall be determined as a default
23 pursuant to Title 14 of the California Code of Regulations (CCR) section 18466 and
24 Government Code section 11520. The California Integrated Waste Management Board
25 (CIWMB) is now CALRECYCLE. CALRECYCLE succeeded to CIWMB's authority on January
26 1, 2010, pursuant to Public Resources Code (PRC) section 40401(a)(1). CALRECYCLE takes
27 action against RESPONDENT based upon evidence and affidavits that may be used without
28 any notice to RESPONDENT.

FACTUAL FINDINGS

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2 1. The Administrative Complaint was executed by HEATHER L. HUNT,
3 Staff Counsel III, CALRECYCLE, acting in her official capacity.

4 2. RESPONDENT owns and operates a used and retreading tire business located
5 at 2854 West Pico Boulevard, Los Angeles, California 9006 (the site). RESPONDENT
6 removes waste tires from and accepts waste tires at the site during the course of its normal
7 business operations, thereby making RESPONDENT a generator and an end-use facility.

8 3. During an inspection of the site on May 18, 2010, and documented in Waste Tire
9 Survey and Inspection Report (Inspection Report) number I1-1115100, Los Angeles City
10 Inspector Kieran Au observed that no TPID certificate was posted in a conspicuous place, in
11 violation of 14 CCR section 18459.1. Further, RESPONDENT was unable to provide
12 Comprehensive Trip Logs (CTLs) to Mr. Au at his request, and Mr. Au determined that no
13 CTLs were available for inspection onsite documenting the delivery to or pick-up of waste tires,
14 in violation of 14 CCR section 18459.3. Mr. Au also observed 400 waste tires onsite.

15 4. During an inspection of the site on June 22, 2010, and documented in Inspection
16 Report number I1-1140103, Mr. Au again observed that no TPID certificate was posted in a
17 conspicuous place, in violation of 14 CCR section 18459.1, and that no CTLs were available
18 for inspection documenting delivery to or pick up of waste tires from the site, in violation of 14
19 CCR section 18459.3. Mr. Au also observed 300 waste tires onsite.

20 5. During an inspection of the site on September 21, 2010, and documented in
21 Inspection Report number I1-1114716, Inspector Manuel Perez observed again that no TPID
22 certificate was posted in a conspicuous place, and that no CTL receipts were available for
23 inspection documenting delivery to or pickup of waste tires from the site. Mr. Perez further
24 observed 186 waste tires onsite.

25 6. On September 28, 2010, Mr. Au referred the matter to CALRECYCLE for further
26 enforcement follow-up.

27 7. Keith Cambridge, Supervisor for CALREYCLE's Tire Hauler Compliance Unit,
28 conducted a review of RESPONDENT's CTLs and observed a 16-month void, between July,

2009, and November, 2010, in documentation of waste tires being removed from or delivered to the site. The following table shows the CTLs in CALRECYCLE's possession documenting tires hauled to and from the site between February, 2009, and January, 2011.

CTL Form Number	Load Date	Hauler Name	PU PTE	Del PTE	Facility Name
4170665-C	01/31/2011	Jose Recycling Tires	300	0	Rafaeleno Tires
4170659-B	01/24/2011	Jose Recycling Tires	270	0	Rafaeleno Tires
4169799-A	12/06/2010	Jose Recycling Tires	140	0	Rafaeleno Tires
4169780-A	11/22/2010	Jose Recycling Tires	220	0	Rafaeleno Tires
4169778-A	11/19/2010	Jose Recycling Tires	200	0	Rafaeleno Tires
3971843-B	07/06/2009	Jose Recycling Tires	290	0	Rafaeleno Tires
3353842-B	05/28/2009	Jose Recycling Tires	372	0	Rafaeleno Tires
3734325-B	04/14/2009	Jose Recycling Tires	452	0	Rafaeleno Tires
3943564-C	03/17/2009	Jose Recycling Tires	275	0	Rafaeleno Tires
3943604-A	02/19/2009	Jose Recycling Tires	250	0	Rafaeleno Tires

LEGAL CONCLUSIONS

8. On at least three (3) separate occasions RESPONDENT violated 14 CCR section 18459.3 (a) by failing to maintain onsite, and make available for inspection, CTLs documenting the delivery of tires to or the pick-up of tires from the site.

9. On at least three (3) separate occasions RESPONDENT violated 14 CCR section 18459.1 (a) by failing to post a CALREYCLE-assigned TPID certificate in a conspicuous location onsite.

10. Pursuant to 14 CCR section 18464, the waste and used tire hauler penalty tables, the requested penalty of fifteen hundred dollars (\$1,500.00) is within the CALRECYCLE'S discretion.

11. No evidence of mitigation, extenuation or rehabilitation is offered.

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ORDER

Good cause appearing, Complainant's motion to take action in accordance with the provisions of Government Code Section 11520, subdivision (a) is granted.

THE FOLLOWING ORDER is hereby made:

RESPONDENT, RAFAELENO TIRES, is ordered to pay an administrative penalty of fifteen hundred dollars (\$1,500.00) to CalRecycle within 30 (thirty) days of the date of this Decision.

RESPONDENT'S RIGHT TO FILE WRITTEN MOTION

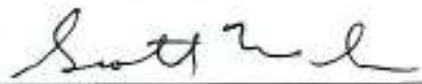
Pursuant to Government Code section 11520(c) RESPONDENT has a right to serve a motion:

Within seven days after service on the respondent of a decision based on the respondent's default, the respondent may serve a written motion requesting that the decision be vacated and stating the grounds relied on. The agency in its discretion may vacate the decision and grant a hearing on a showing of good cause. As used in this subdivision, good cause includes, but is not limited to, any of the following:

- (1) Failure of the person to receive notice served pursuant to Section 11505.
- (2) Mistake, inadvertence, surprise, or excusable neglect.

This DECISION shall become effective 10-27-11.

Dated this 27 day of October 2011.



Scott Walker
ACTING DEPUTY DIRECTOR
COMPLIANCE AND
ENFORCEMENT DIVISION
CALRECYCLE

