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8 STATE OF CALIFORNIA

9 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10
11 IN THE MATTER OF:

12 ROADEO LOGISTICS, INC.

13 TPID NO: 1750903-01

14 RESPONDENTS.

} STATEMENT OF ISSUES FOR THE
DENIAL OF WASTE AND USED TIRE
HAULER REGISTRATION

} PUBLIC RESOURCES CODE SECTION
42960

} AGENCY NO. 2014-000132-DEN

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16
17 This California Department of Resources Recycling and Recovery
18 (CALRECYCLE) Statement of Issues is seeking the DENIAL for three years of the 2014
19 Waste and Used Tire Registration Application of ROADEO LOGISTICS, INC.
20 (RESPONDENT), located at 729 S. Knott Avenue, Anaheim, California 92804, in
21 accordance with Public Resources Code (PRC) section 42960.

22 The California Integrated Waste Management Board (CIWMB or also referred to
23 as, the "Board") is now the California Department of Resources Recycling and Recovery
24 (CALRECYCLE). CALRECYCLE succeeded to CIWMB's authority on January 1, 2010,
25 pursuant to Public Resources Code (PRC) section 40401(a)(1). This denial of
26 registration is so issued based on the following facts:

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1 **STATEMENT OF FACTS**

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

6 2. Pursuant to PRC section 42960, CALRECYCLE has the authority to deny
7 a Waste Tire Hauler Registration for a period of up to three years if the holder of the
8 registration commits specific violations, including:

9 i. More than three violations of, or fails to comply with any requirements of
10 California's Waste Tire Hauler Registration Laws (PRC section 42950 et seq.) or
11 California's Waste Tire Storage Laws (PRC section 42800 et seq.), or the
12 regulations adopted pursuant to those provisions, within a one-year period, or

13 3. 14 CCR section 18450(34) defines a Used or Waste Tire Hauler or
14 "Hauler" as any person engaged in the transportation of used or waste tires, or tire
15 casings, including haulers that the Department [CALRECYCLE] approved as exempt
16 from registration pursuant to PRC section 42954.

17 4. Pursuant to 14 CCR section 18455, each Waste Tire Hauler Registration
18 expires annually on January 1, and CALRECYCLE must receive a new application from
19 any waste tire hauler who wishes to continue to operate as a waste tire hauler no later
20 than 45 days prior to the January 1 expiration date.

21 5. PRC section 42951(b) requires that "A registered waste and used tire
22 hauler shall only transport waste or used tires to a facility that is permitted, excluded,
23 exempted, or otherwise authorized by [CALRECYCLE], by statute, or by regulation, to
24 accept waste and used tires, or to a facility that lawfully accepts waste or used tires for
25 reuse or disposal.

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1 6. PRC section 42961.5(c)(2) requires that “Any waste and used tire hauler
2 hauling waste or used tires for offsite handling, altering, storage, disposal, or any
3 combination thereof, shall complete the California Uniform Waste and Used Tire
4 Manifest as required by [CALRECYCLE]. The waste and used tire hauler shall provide
5 the manifest to the waste or used tire facility operator who receives the waste or used
6 tires for handling, altering, storage, disposal, or any combination thereof. Each waste
7 and used tire hauler shall submit to [CALRECYCLE], on a quarterly schedule, a legible
8 copy of each manifest. The copy submitted to [CALRECYCLE] shall contain the
9 signatures of the generator and the facility operator. If approved by [CALRECYCLE], in
10 lieu of submitting a copy of each manifest used, a generator may submit an electronic
11 report to [CALRECYCLE] meeting the requirements of section 42814.”

12 7. 14 CCR section 18460.2(b) requires that “The registered waste tire hauler
13 shall complete a new Manifest Form for each pick-up or delivery of any used or waste
14 tires in accordance with the directions on the form. The waste tire hauler shall not
15 transport any used or waste tires without having a copy of the Manifest Form in the
16 vehicle transporting the used or waste tires.”

17 8. 14 CCR section 18459.2.1(a) requires that, “The waste tire hauler shall
18 submit the completed original CTL Form to the Department within ninety (90) days of
19 the load shipment. The Manifest Form shall be in the waste tire hauler’s possession
20 while transporting used or waste tires and shall be shown upon demand to any
21 representative of the Department”¹

22 9. 14 CCR section 18459.3(b) requires “The waste tire hauler shall retain a
23 copy of the completed Manifest Form at their place of business for a period of three (3)
24 years. These records shall be made available to any authorized representative of the
25 Department upon request.”

26
27
28 ¹ CTL means, “the California Used and Waste Tire Manifest System form developed by the Department pursuant to [PRC] section 42961.5,” pursuant to 14 CCR section 18450(a)(11). CTL is synonymous with Manifest Form.

1 10. 14 CCR section 18456.3(d) requires that “Every registered waste tire
2 hauler shall notify [CALRECYCLE] on a form CALRECYCLE 60 of any change in the
3 business name, business owner, facility address, mailing address, phone number, or
4 vehicle ownership. Notice shall be given no more than ten (10) days after the change.”

5 11. RESPONDENT was granted a Used and Waste Tire Hauler Registration
6 (hereafter, “2013 Registration”) by CALRECYCLE for the 2013 calendar year under the
7 name Roadeo Tires. The Registration was based on the Waste Tire Hauler
8 Registration Application (hereafter, “2013 Application”) dated May 1, 2013, and
9 submitted by owner Chris Nguyen, as an individual, who provided a facility address of
10 2400 W. Rosecrans Avenue, Suite B, Gardena California 90249. The 2013 Application
11 listed only two vehicles for which decals were requested: one vehicle with California
12 license plate number 4P99985 with registered owner NNGO, Inc., another with
13 California vehicle license plate number 8W20005 with registered owner NNGO, Inc.
14 This 2013 Registration expired on January 1, 2014 pursuant to 14 CCR section 18455.

15 12. RESPONDENT filed a Waste Tire Hauler Registration Application on
16 January 10, 2014 under the name Roadeo Tires, naming the business owner as
17 “Roadeo Logistics, Inc.,” with Chris Nguyen as President. The address provided on this
18 2014 Application is 729 South Knott Avenue, Anaheim California 92806. The 2014
19 Application was completed when RESPONDENT submitted a surety bond on January
20 28, 2014 for Roadeo Logistics, Inc.

21 13. On or about May 31, 2013, Inspector Ziba Atai from the Los Angeles
22 County Department of Public Health, inspected RESPONDENT’s facility located at 2400
23 W. Rosecrans Avenue, Suite B, Gardena, CA as documented in Waste Tire Survey and
24 Inspection Report (hereafter, “Inspection Report”) number I1-1179124. Inspector Atai
25 issued a Notice of Violation to RESPONDENT for failing to make manifests (a.k.a.
26 Comprehensive Trip Logs, or CTL’s) available in violation of 14 CCR section
27 18459.3(b), and 18460.2. Inspector Atai informed RESPONDENT of their responsibility
28

1 as a registered waste tire hauler and manifest requirements. A deadline date of July 1,
2 2013 was given to RESPONDENT to comply.

3 14. On July 11, 2013, Inspector Atai conducted a routine inspection of
4 American Tire Depot located at 25150 Rye Canyon Road, Valencia, CA, as
5 documented in Inspection Report number I1-1179062. During this inspection, American
6 Tire Depot made available to Inspector Atai CTLs prepared by RESPONDENT that
7 documented pickups from American Tire Depot by RESPONDENT that were incorrectly
8 filled out, in violation of 18460.2(d), as described below:

9 Comprehensive Trip Log	10 Violation	11 Violation Date	12 Number of Tires	13 Location
14 4932892-B	15 Incorrect Hauler TPID ² and missing load type	16 June 20, 2013	17 343	18 American Tire Depot
19 4932895-A	20 Incorrect Hauler TPID and missing load type	21 June 21, 2013	22 180	23 American Tire Depot
24 4933044-A	25 Missing load type	26 July 4, 2013	27 385	28 American Tire Depot

15 15. On August 28, 2013, Inspector Atai conducted a re-inspection of
16 RESPONDENT's facility located at 2400 W. Rosecrans Avenue, Suite B, Gardena
17 California, as documented in Inspection Report number I1-11793969. RESPONDENT
18 failed to make available CTL receipts for the dates from June 14, 2013 to July 30, 2013,
19 in violation of 14 CCR section 18459.3 and 18462. Inspector Atai extended the
20 previously given NOV compliance deadline to September 3, 2013.

21 16. On September 3, 2013, Inspector Atai and CALRECYCLE Inspector
22 StevenDolan conducted an inspection of SoCal Tires located at 1544 S. Figueroa
23 Street, Gardena, California , as documented in Inspection Report number I1-1157038.

24
25
26
27
28 ² TPID is the acronym for Tire Program Identification Number pursuant to 14 CCR section 18450(a)(30).

1 During the inspection, the inspectors observed 4,709 waste tires, and, based on that
 2 number, determined SoCal Tires to be an unpermitted minor waste tire facility³. During
 3 the same inspection, Inspectors Dolan and Atai observed CTL number 4956805-C that
 4 documented a delivery of 315 waste tires to SoCal Tires that same day, September 3,
 5 2013, in violation of PRC section 42951(b).

6 17. A subsequent review of CALRECYCLE's Waste Tire Management
 7 System (WTMS) database showed that CTL 4956805-C had not been submitted to
 8 CALRECYCLE within the 90-day time requirement, in violation of 18459.2.1. In
 9 addition, the WTMS review showed at least 2 CTLs, as described in the chart below,
 10 documenting deliveries of waste tires by RESPONDENT to SoCal Tires between
 11 August 10, 2013 and August 20, 2013 in an amount greater than 499. Since SoCal
 12 Tires was not in possession of a waste tire facility permit at any time between August
 13 10, 2013 and August 20, 2013, the delivery of 500 or more waste tires caused SoCal
 14 Tires to be an unpermitted minor waste tire facility. The deliveries were therefore made
 15 in violation of PRC section 42951(b).

Comprehensive Trip Log #	Violation	Delivery Date	Waste Tires Delivered	Facility Name
4956891-C	Transporting waste tires to an unauthorized location.	August 12, 2013	505	SoCal Tires
4956871-C	Transporting waste tires to an unauthorized location.	August 19, 2013	723	SoCal Tires
4956805-C	Transporting waste tires to an unauthorized location and Failure to submit a CTL to CALRECYCLE.	September 3, 2013	315	SoCal Tires

27 ³ Pursuant to PRC section 42834 it is unlawful to direct or transport waste tires to a minor waste tire
 28 facility unless the operator has obtained a minor waste tire facility permit. SoCal Tires was a minor waste
 tire facility as that term is defined in PRC section 42808(c). At the time of this inspection, SoCal Tires
 was not in possession of a Minor Waste Tire Facility Permit.

1 18. On September 11, 2013, Inspector Atai conducted another re-inspection
2 of RESPONDENT's facility located at 2400 W Rosecrans Avenue, Suite B, Gardena CA
3 90249, as documented in Inspection Report number I1-1208524. During this inspection,
4 Inspector Atai discussed the vehicles listed in the 2013 Application. Mr. Nyugen, for
5 RESPONDENT, provided documentation to Inspector Atai showing that the ownership
6 of vehicle with license plate number 4P99985 had been transferred to Rodeo Tires.
7 Mr. Nyugen also stated to Inspector Atai that vehicle with license plate number
8 8W20005 had been sold. RESPONDENT had failed to notify CALRECYCLE of the
9 change in ownership for these two vehicles within ten days, in violation of 14 CCR
10 section 18456.3(d). In fact, RESPONDENT failed to notify CALRECYCLE of these
11 changes prior to submitting its 2014 Application.

12 19. On January 23, 2014, Inspector Atai performed an inspection of American
13 Tire Depot and observed CTL numbers 4864143-B and 4956840-B documenting pick-
14 ups of more than 9 waste tires from American Tire Depot by RESPONDENT. On
15 January 23, 2014, RESPONDENT was not in possession of a current Waste Tire Hauler
16 Registration, so the two pick-ups were in violation of PRC section 42951(a).

17 20. On January 28, 2014, Inspector Atai performed an inspection of an
18 unpermitted minor waste tire facility located at 11901 S. Alameda Street, Lynwood,
19 California 90264, during which she observed a truck owned and operated by
20 RESPONDENT hauling waste and used tires to the facility, as documented in
21 Inspection Report number I1-1198282 and the Hauler Observation Report for that
22 location and date. Inspector Atai determined that the driver of the vehicle was not in
23 possession of a manifest, in violation of 14 CCR section 18460.2(b), and that the
24 vehicle was not registered by CALRECYCLE to haul tires by RESPONDENT. Upon
25 further investigation, Inspector Atai determined that the vehicle was instead registered
26 by CALRECYCLE to T&T American Recycle. By using a vehicle that was not registered
27 to RESPONDENT, RESPONDENT was in violation of 14 CCR section 18454(f) .
28 Moreover, on January 28, 2014, RESPONDENT was not in possession of a valid Waste

1 Tire Hauler Registration, so the hauling of a load of more than 9 waste or used tires
2 was in violation of PRC section 42951(a).

3 21. A further review of CTLs in CALRECYCLE's WTMS database for loads of
4 waste and used tires hauled by RESPONDENT revealed 5 CTLs with errors, in violation
5 of 14 CCR section 18460.2(d), as described in the chart below:

6 Comprehensive Trip Log (CTL) #	7 Violation	8 Number of tires	9 Date
10 4706295-B	11 Incorrect Facility TPID number	12 380	13 July 23, 2013
14 4956875-B	15 Incorrect Facility TPID number	16 263	17 August 14, 2013
18 4956871-A	19 Load type not checked	20 366	21 August 17, 2013
22 4956802-C	23 Load type not checked	24 485	25 September 9, 2013
26 4933074-B	27 Incorrect Facility TPID number	28 338	September 10, 2013

16 22. On August 14, 2013, Inspector Valdes, Neighborhood Standards
17 Specialist with the City of Fresno's Code Enforcement Division observed truck with
18 California license plate number 4P99985, which was registered to haul tires by
19 CALRECYCLE to RESPONDENT, with approximately 300 waste or used tires parked at
20 4419 E. Belmont Ave, Fresno, CA. On August 22, 2013, Inspector Valdes observed the
21 same truck with no waste or used tires. However, a subsequent review of
22 CALRECYCLE's WTMS database showed no deliveries of waste or used tires for this
23 vehicle between August 14, 2013, and August 22, 2013. This failure of RESPONDENT
24 to submit CTLs to CALRECYCLE within 90 days is in violation of 14 CCR section
25 18459.2.1.

26 23. Also on August 22, 2013, Investigator Holly observed the same vehicle
27 (CA #4P99985) carrying approximately 400 waste or used tires entering a facility
28 located at 2365 South Delno Avenue, Fresno, CA and later leaving the site empty. A

1 review of CALRECYCLE's WTMS database showed no TPID number issued for this
2 site. By delivering waste or used tires to a site not in possession of a TPID number,
3 RESPONDENT violated 14 CCR sections 18460.2(b) & (g).

4 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

5 24. CALRECYCLE is seeking the DENIAL of RESPONDENTS' Waste Tire
6 Hauler Registration for three years pursuant to PRC section 42960 based on the above-
7 mentioned facts and for the following violations as more specifically set forth in the
8 foregoing paragraphs:

- 9
- 10 a. RESPONDENT knowingly violated PRC section 42951(b) by delivering
11 at least three loads of waste tires to an unpermitted or unauthorized
12 location.
 - 13 b. RESPONDENT knowingly violated PRC section 42961.5(c)(2) and 14
14 CCR section 18459.2.1 on at least two occasions by failing to submit
15 CTLs to CALRECYCLE within 90 days of the date a load of used or
16 waste tires was hauled by RESPONDENT.
 - 17 c. RESPONDENT knowingly violated 14 CCR section 18456.3(d) on at
18 least two occasions by failing to notify CALRECYCLE of vehicle
19 ownership changes for two vehicles.
 - 20 d. RESPONDENT knowingly violated 14 CCR section 18459.3(b) on at
21 least two occasions by failing to have CTL records available for review
22 at its place of business.
 - 23 e. RESPONDENT knowingly violated 14 CCR section 18460.2(b) on at
24 least one occasion by hauling used or waste tires without possession
25 a CTL during the hauling.
 - 26 f. RESPONDENT knowingly violated 14 CCR section 18460.2(d) on at
27 least eight occasions by failing to completely or correctly fill out the
28 CTL Form.

1 g. RESPONDENT knowingly violated 14 CCR PRC section 42951(a) on
2 at least three occasions by transporting used or waste tires in an
3 amount of nine or more without possession a valid Waste and Used
4 Tire Hauler Registration.

5
6 **RIGHT TO HEARING**

7 25. You are hereby notified that pursuant to the provisions of sections 42961
8 and 42961.1 of the California Public Resources Code that you are entitled to a hearing
9 to refute the allegations against you contained in this Statement of Issues for the Denial
10 of Waste and Used Tire Hauler Registration. **If you wish to have a hearing on this**
11 **matter, you must complete and return the enclosed REQUEST FOR HEARING to**
12 **our Legal Office within 30 days of receipt of this notice. Failure to complete and**
13 **return the REQUEST FOR HEARING within 30 days will be deemed a waiver of**
14 **your rights to a hearing.**

15 Pursuant to the above referenced Public Resources Code and Government Code
16 sections, discovery requests by any party must be made within thirty days after the
17 service of this Statement of Issues for the Denial of Waste and Used Tire Hauler
18 Registration.

19
20 Dated this 26TH day of February, 2014.

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22 
23 HEATHER L. HUNT
24 Attorney III
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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 _____
(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.

- 1 () Admit the Accusation in whole or in part.
2 () Object to the Accusation on the basis that compliance with the requirements of a
3 regulation would result in a material violation of a regulation enacted by another
4 department affecting substantive rights.

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

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

9 Address: _____

10 City: _____

State: _____

Zip Code: _____

11 Telephone: _____

Email: _____

12 I hereby agree to accept service of all correspondence by email.
13

14 Signature: _____

15 Date: _____
16

17 **Please send to:**

18 **CalRecycle Legal Office**
19 **Attention: Gloria Bell**
20 **P.O. Box 4025, MS 24-B**
21 **Sacramento, CA 95812-4125**
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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 you are entitled to request a hearing to refute the allegations against you contained in the STATEMENT OF ISSUES FOR THE DENIAL OF WASTE AND USED TIRE HAULER REGISTRATION (Statement of Issues). 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 Statement of Issues, will acknowledge service of the Statement of Issues 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 Statement of Issues. 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 Statement of Issues.

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.



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
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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.