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8
9 STATE OF CALIFORNIA

10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:

12
13 CHASSIS & TIRES REPAIR, INC.

14
15 RESPONDENT

16
17 TPID NO.: 1208904-01

ADMINISTRATIVE COMPLAINT
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES

PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

18 AGENCY NO: 2015-011178-ADC

19 INTRODUCTION

20 The California Integrated Waste Management Board (CIWMB) is now the California
21 Department of Resources Recycling and Recovery (CALRECYCLE). CALRECYCLE
22 succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code
23 (PRC) section 40401(a)(1).

24 Pursuant to PRC section 42851(a), CALRECYCLE is authorized to issue an
25 administrative accusation to a person on whom civil liability may be imposed. This
26 Administrative Complaint For Waste Tire Hauler Administrative Penalties of Chassis & Tires
27 Repair, Inc. (RESPONDENT) 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 California
4 under PRC sections 42800 et seq., 42950 et seq., and attendant regulations contained in Title
5 14 of the California Code of Regulations (CCR).

6 2. A "Waste or Used Tire Hauler" or "Hauler" is defined as, "any person engaged in
7 the transportation of waste or used tires, or tire casings, including haulers that the
8 [CALRECYCLE] approved as exempt from registration pursuant to PRC section 42954." (14
9 CCR section 18450(a)(37).)

10 3. PRC section 42951(a) states, "[e]very person who engages in the transportation
11 of waste or used tires shall hold a valid waste and used tire hauler registration (waste tire
12 hauler registration), unless exempt as specified in Section 42954."

13 4. Pursuant to PRC section 42956(b), "any person who operates a vehicle . . . that
14 transports 10 or more tires without a valid and current waste and used tire hauler registration,
15 as issued by [CALRECYCLE] . . . , shall be subject to the enforcement actions specified in
16 Article 4 (commencing with [PRC] Section 42962)."

17 5. Title 14 CCR section 18454(a) requires that, "any person hauling 10 or more
18 used or waste tires shall apply for a waste tire hauler registration, unless exempt." Subsections
19 (c) and (d) further provide that, "the initial waste tire hauler registration is valid from [sic] the
20 date of issuance to January 1 of the following year" "The waste tire hauler is not
21 authorized to haul used or waste tires after the January 1 expiration date unless the waste tire
22 hauler has applied to renew the waste tire hauler registration prior to expiration and has
23 received the [CALRECYCLE] issued renewal registration card(s) and vehicle decal(s)."

24 6. Pursuant to PRC section 42955(d), A waste tire hauler registration application
25 shall include:

26 (d) A bond in favor of the State of California in the amount of ten thousand
27 dollars (\$10,000). Proof of bond renewal shall be submitted with the application
28 for annual renewal of a waste and used tire hauler registration.

1 7. Pursuant to 14 CCR section 18456.1(b), "The surety bond shall remain in full
2 force and effect during all registration periods. Failure to maintain an adequate bond pursuant
3 to [PRC] section 42955(d), shall result in automatic cancellation of the waste tire hauler
4 registration. The cancelled registration may be reinstated by [CALRECYCLE] when a new
5 surety bond is posted."

6 8. PRC section 42961.5(c)(2) requires:

7 Any waste and used tire hauler hauling waste or used tires for offsite
8 handling, altering, storage, disposal, or any combination thereof, shall
9 complete the California Uniform Waste and Used Tire Manifest as
 required by [CALRECYCLE].

10 9. The "California Uniform Waste and Used Tire Manifest" is a form developed by
11 CALRECYCLE pursuant to PRC section 42961.5 and is also referred to as the
12 "Comprehensive Trip Log" or "CTL." The CTL form is incorporated in the regulations by 14
13 CCR section 18450(a)(11), and must be filled out completely and accurately, including
14 providing the Tire Program Identification (TPID) number for the location of delivery or pick-up
15 of each load of waste tires.

16 10. Title 14 CCR section 18460.2, subsections (b), (d), (e), and (h), provide that a
17 registered waste tire hauler shall complete a new CTL for each pick-up or delivery of any
18 waste or used tires, shall not transport waste or used tires without a properly completed CTL
19 form, shall not transport waste or used tires without having a completed copy of the CTL form
20 in the vehicle transporting the waste or used tires, shall leave one completed copy of the CTL
21 form with the waste or used tire generator or end-use facility, and shall keep a copy of the
22 completed CTL form.

23 11. Title 14 CCR section 18463, subsections (a), (b) and (d), provide that any waste
24 tire hauler who intentionally or negligently violates any permit, rule, regulation, standard,
25 requirement, or allows any violation or noncompliance with any permit, rule, regulation,
26 standard, or requirement pursuant to PRC section 42950 et seq. relating to the generation,
27 transportation, or disposal of used or waste tires, shall be liable for a civil penalty.

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1 12. RESPONDENT became a registered waste tire hauler on April 22, 2004, and
2 remained a registered waste tire hauler through 2015, until CALRECYCLE cancelled
3 RESPONDENT's waste tire hauler registration.

4 13. At the time CALRECYCLE issued RESPONDENT its initial hauler registration,
5 and subsequently during the annual hauler registration renewal process, RESPONDENT was
6 provided with instructions regarding the proper completion, retention, and delivery of CTL
7 forms or "manifest forms". At the time of RESPONDENT's initial registration and annually
8 during the hauler registration renewal process, RESPONDENT was sent a hauler package
9 containing the following: (1) instructions on transporting waste/used tires; (2) a complete list of
10 hauler and manifesting regulations (Title 14, California Code of Regulations, Chapter 6); and
11 (3) a training compact disc on the proper storage and transportation of waste/used tires.
12 RESPONDENT was also sent a CTL Guidance Manual, explaining in detail how to properly
13 complete the CTL form, including the requirement to "manifest" (to document on the CTL form)
14 all waste and used tire pickups and deliveries.

15 14. RESPONDENT has received multiple Letters of Violation (LOVs), specifically
16 LOV's dated June 8, 2004, June 15, 2004, July 3, 2013 and September 25, 2013, regarding
17 the non-submission of CTLs to CALRECYCLE and for errors and omissions.

18 15. On April 22, 2015, RESPONDENT received notification from CALRECYCLE that
19 its waste tire hauler registration had been cancelled for failing to maintain the required surety
20 bond. Said letter informed RESPONDENT that CALRECYCLE had received a "Notice to
21 Cancel Bond Insurance" letter from SAFECO INSURANCE COMPANY OF AMERICA
22 indicating that RESPONDENT's Bond had been cancelled on April 14, 2014. The letter
23 reminded RESPONDENT not to haul waste or used tires until re-applying for a new waste tire
24 hauler registration and receiving his new decal(s) for his vehicle(s). The letter also reminded
25 RESPONDENT of the potential for enforcement and punitive actions for a failure to comply,
26 including the imposition of civil penalties and/or citation by law enforcement.

27 16. On August 17, 2015, CALRECYCLE received a new Waste Tire Surety Bond
28 issued by Lexon Insurance Company with an effective date of July 14, 2015, from

1 RESPONDENT. At that time, CALRECYCLE reinstated RESPONDENT's waste tire hauler
 2 registration.

3 17. Between April 24, 2015 and July 14, 2015, RESPONDENT illegally hauled at
 4 least 39 loads of 10 or more waste or used tires as an unregistered waste tire hauler, as
 5 documented on CTLs listed in the table below:

Comprehensive Trip Log	Violation	Passenger Tire Equivalent	Load Date	Penalty Assessed
5375605-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	51	June 16, 2015	\$500
5375606-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	80	June 10, 2015	\$500
5375607-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	64	June 09, 2015	\$500
5375608-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	74	June 11, 2015	\$500
5375611-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	82	May 22, 2015	\$500
5375611-C	Unregistered Tire Hauling, 41-100 Waste/Used Tires	62	May 29, 2015	\$500
5375612-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	50	May 29, 2015	\$500
5375613-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	87	June 02, 2015	\$500
5375614-B	Unregistered Tire Hauling, more than 100 Waste/Used Tires	103	June 01, 2015	\$1,000
5375616-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	71	June 4, 2015	\$500
5375616-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	92	June 12, 2015	\$500
5375623-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	63	May 6, 2015	\$500
5375624-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	50	May 8, 2015	\$500
5375625-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	50	May 12, 2015	\$500
5375625-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	60	May 13, 2015	\$500
5375625-C	Unregistered Tire Hauling, more than 100 Waste/Used Tires	110	May 13, 2015	\$1,000
5375627-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	64	May 11, 2015	\$500
5375628-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	60	May 26, 2015	\$500
5375629-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	50	May 20, 2015	\$500
5375630-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	41	May 15, 2015	\$500
5375630-C	Unregistered Tire Hauling, 41-100 Waste/Used Tires	91	May 15, 2015	\$500
5375631-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	45	May 19, 2015	\$500
5375633-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	94	May 08, 2015	\$500
5375635-C	Unregistered Tire Hauling, 41-100 Waste/Used Tires	65	May 20, 2015	\$500

5375648-A	Unregistered Tire Hauling, more than 100 Waste/Used Tires	105	April 24, 2015	\$1,000
5375648-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	70	April 30, 2015	\$500
5684601-B	Unregistered Tire Hauling, more than 100 Waste/Used Tires	104	June 19, 2015	\$1,000
Comprehensive Trip Log	Violation	Passenger Tire Equivalent	Load Date	Penalty Assessed
5684602-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	60	July 01, 2015	\$500
5684602-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	49	July 02, 2015	\$500
5684603-A	Unregistered Tire Hauling, 21-40 Waste/Used Tires	34	June 26, 2015	\$500
5684603-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	60	June 29, 2015	\$500
5684604-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	70	June 24, 2015	\$500
5684605-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	48	June 23, 2015	\$500
5684606-B	Unregistered Tire Hauling, 41-100 Waste/Used Tires	70	June 29, 2015	\$500
5684608-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	46	July 6, 2015	\$500
5684609-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	50	July 9, 2015	\$500
5684609-B	Unregistered Tire Hauling, 21-40 Waste/Used Tires	21	July 10, 2015	\$500
5684613-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	75	July 10, 2015	\$1,000
5684614-A	Unregistered Tire Hauling, 41-100 Waste/Used Tires	54	July 13, 2015	\$500

18. Between February 13, 2015 and June 29, 2015, CALRECYCLE conducted an audit of RESPONDENT's manifest forms and determined that RESPONDENT maintained an approximate 94% error rate on his manifest forms. The table below provides the manifesting violations by RESPONDENT:

Comprehensive Trip Log	Violation	Load date	Penalty Assessed
5375606-A 5375606-B 5375606-C	Load type missing, pickup and delivery not checked Load type missing Load type missing	June 5, 2015 (Receipt A)	\$1,500
5375608-A 5375608-B 5375608-C	Load type missing Load type missing, pickup and delivery not checked Load type missing	June 11, 2015 (Receipt A)	\$1,500
5375611-A	Load type missing	May 22, 2015 (Receipt A)	\$1,500
5375616-A 5375616-B 5375616-C	Load type missing Load type missing Load type missing	June 4, 2015 (Receipt A)	\$1,500

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5375626-A 5375626-B 5375626-C	Load type missing, pickup and delivery not checked Load type missing, pickup and delivery not checked Load type missing	June 19, 2015 (Receipt A)	\$1,500
5375637-A 5375637-B 5375637-C	Load type missing Load type missing Load type missing, both pickup and delivery checked	April 17, 2015 (Receipt A)	\$1,500
5375638-A 5375638-B 5375638-C	Load type missing Load type missing Load type missing	April 22, 2015 (Receipt A)	\$1,500
Comprehensive Trip Log	Violation	Load date	Penalty Assessed
5375644-A 5375644-B 5375644-C	Load type missing, pickup and delivery not checked Load type missing Load type missing	April 1, 2015 (Receipt A)	\$1,500
5375663-A 5375663-B 5375663-C	Load type missing, pickup and delivery not checked Load type missing, pickup and delivery not checked Load type missing, pickup and delivery not checked	March 19, 2015 (Receipt A)	\$1,500
5375664-A 5375664-B 5375664-C	Load type missing, pickup and delivery not checked Load type missing, pickup and delivery not checked Load type missing, pickup and delivery not checked	March 23, 2015 (Receipt A)	\$1,500
5375673-C	Load type and facility business name and address missing,	April 20, 2015 (Receipt C)	\$1,500
5375674-B 5375674-C	Load type missing, pickup and delivery not checked Load type missing, pickup and delivery not checked	March 12, 2015 (Receipt B)	\$1,500
5375681-A 5375681-B 5375681-C	Load type missing, pickup and delivery not checked Load type missing, pickup and delivery not checked Load type missing, pickup and delivery not checked	March 6, 2015 (Receipt A)	\$1,500
5375684-A 5375684-B 5375684-C	Load type missing Load type missing Load type missing	February 20, 2015 (Receipt A)	\$1,500
5375685-A 5375685-B 5375685-C	Load type missing Load type missing Load type missing	February 13, 2015 (Receipt A)	\$1,500
5375694-A 5375694-B	Missing facility TPID Missing facility telephone number	February 19, 2015 (Receipt A)	\$1,500
5684606-B	Load type missing	June 29, 2015 (Receipt B)	\$1,500

1 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

2 19. CALRECYCLE is seeking administrative penalties of \$47,000.00, pursuant to
3 PRC section 42962(c) based on the above-mentioned facts and for the following violations as
4 more specifically set forth in the foregoing paragraphs:

5 a. RESPONDENT knowingly violated PRC section 42951(a) by hauling at
6 least 39 loads of 10 or more waste or used tires between April 24, 2015 and July
7 14, 2015 without possessing a valid waste tire hauler registration.

8 b. RESPONDENT knowingly violated PRC section 42961.5(c)(2) by
9 submitting at least 17 manifest forms with errors and or omissions to
10 CALRECYCLE between February 13, 2015 and June 29, 2015.

11
12 **PENALTIES**

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

16 Pursuant to PRC section 42962(c):

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

22 Title 14 CCR section 18463, provides:

23 Any waste tire generator, end-use facility, or waste tire hauler, or any party
24 or person who commits any of the following acts shall be liable for a civil
25 penalty:

26 (a) Intentionally, or negligently violates any permit, rule, regulation, standard, or
27 requirement pursuant to Chapter 19 of the Public Resources Code relating to the
28 generation, transportation or disposal of used or waste tires.

- 1 (b) The aiding or abetting, or allowing of any violation, or noncompliance with any
2 permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the
3 Public Resource [sic] Code relating to the generation, transportation or disposal
4 of used or waste tires...
- 5 (c) Any violation of, or noncompliance with any order issued by [CALRECYCLE] or
6 by a hearing officer or a court relating to the generation, transportation or
7 disposal of used or waste tires.
- 8 (d) Any false statement, misrepresentation, or omission of a significant fact or other
9 required information in the application for a waste tire hauler registration,
10 Manifest Form, Unregistered Hauler & Comprehensive Trip Log Substitution
11 Form, or in information regarding these matters subsequently reported to
12 [CALRECYCLE].
- 13 (e) In addition to liability for a civil penalty, [CALRECYCLE] may:
- 14 (1) File a claim against any registered waste tire hauler surety bond for
15 activities resulting from the illegal disposal of tires or injury.
- 16 (2) Deny, suspend, or revoke a waste tire hauler registration.

17 21. Pursuant to 14 CCR section 18464, CALRECYCLE may assess a penalty for
18 violations of PRC section 42951(a) between \$500.00 to \$750.00 for each count of unregistered
19 hauling where the amount of tires hauled was between 21 to 40 tires for a first offense; and a
20 penalty between \$500.00 to \$1,000.00 for each count of unregistered hauling where the
21 amount of tires hauled was between 41 to 100 tires; and \$3,000.00 to \$5,000.00 for each
22 count of unregistered hauling where the amount of tires hauled was greater than 100 tires as a
23 third offense.

24 22. RESPONDENT committed two counts of unregistered tire hauling, between 21-
25 40 waste and used tires as a first offense, 33 counts of unregistered tire hauling, between 41-
26 100 waste and used tires as a first offense and 4 counts of unregistered tire hauling, more than
27 100 waste and used tires as a first offense totaling \$21,500.00.

28 23. Title 14 CCR section 18464 authorizes penalties for violations of PRC section
42961.5(c)(2), including but not limited to: CTL, Manifest violations, or Electronic reporting
violations; including failure to submit the CTL, manifests, or electronic reporting on a quarterly

1 basis to CALRECYCLE, missing information, incomplete information, and false information,
2 with penalties ranging from \$1,500-\$2,500 for each third offense.

3 24. RESPONDENT committed 17 counts of manifesting violations as a third offense,
4 totaling a \$25,500.00 penalty¹.

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

- 8 (1) The nature, circumstances, extent, and gravity of the violation.
- 9 (2) Evidence that the violation was willful or negligent.
- 10 (3) The good or bad faith exhibited by the party.
- 11 (4) History of violation of the same or similar nature.
- 12 (5) The extent to which the party has cooperated with [CALRECYCLE]
13 in remediating the violation.
- 14 (6) The extent that the party has mitigated or attempted to mitigate any damage
15 or injury caused by his or her violation.
- 16 (7) Evidence of any financial gain resulting from the violation.
- 17 (8) Such other matters as justice may require.

18 26. Accordingly, CALRECYCLE hereby requests that a waste tire hauler
19 administrative penalty be assessed against RESPONDENT in the sum of \$47,000.00.
20

21 RIGHT TO HEARING

22 You are hereby notified that pursuant to the provisions of PRC section 42961.1 and
23 Government Code section 11505 that you are entitled to a hearing to refute the allegations
24 against you contained in this ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER
25 ADMINISTRATIVE PENALTIES. **If you wish to have a hearing on this matter, you must**
26 **complete and return the enclosed REQUEST FOR HEARING/ NOTICE OF DEFENSE to**
27 **our Legal Office within 15 days of receipt of this Administrative Complaint. Failure to**
28

¹ This information was determined by collecting data from all CTLs in CalRecycle's Waste Tire Management System (WTMS) from pickups made by vehicles registered (by decal number) to RESPONDENT.

1 **complete and return the REQUEST FOR HEARING/NOTICE OF DEFENSE within 15 days**
2 **will be deemed a waiver of your right to a hearing.**

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

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8 Dated this 25th day of February, 2016.


HEATHER L. HUNT
Attorney III for
Department of Resources Recycling and
Recovery (CALRECYCLE)

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