

BEFORE THE
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

IN THE MATTER OF:

Gagik Oganyan, PROPERTY OWNER AND
OPERATOR,

DBA: USA Tire Recycling

TPID NUMBER: 1953375

ASSESSOR PARCEL NUMBER: 002-341-011-000

Amended Cleanup and Abatement Order

Number: 2024-102431-CAO-Amended

Public Resources Code section 42845

TO: Gagik Oganyan, Property Owner/Operator, USA Tire Recycling

PLEASE TAKE NOTICE THAT:

This Amended Cleanup and Abatement Order supersedes Cleanup and Abatement Order number 2024-102431-CAO (original CAO). It is issued in response to the request submitted by USA Tire Recycling, to the Department of Resources, Recycling and Recovery (CalRecycle) on May 14, 2024, and with consideration that USA Tire Recycling has reduced the waste and used tire count to zero as required by the original CAO and that USA Tire Recycling is currently taking steps to obtain a waste tire facility permit for the site.

You are the Operator of a waste tire facility known as USA Tire Recycling and/or Property Owner of property located at 17708 Avenue 23 1/2 Chowchilla, CA 93610, Assessor Parcel Number 002-341-011-000, upon which USA Tire Recycling is located, as those terms are defined in Public Resources Code (PRC) sections 42804, 42805 and 42808. The property for this site has been identified in Inspection Reports attached to the original CAO. The PRC and Title 14 of the California Code of Regulations (14 CCR) references were attached hereto and incorporated by reference as Appendix B to the original CAO.

CalRecycle is authorized to act as the enforcement agency for waste tire facilities, pursuant to PRC section 42800 et seq., and is the enforcement agency for this waste tire site.

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This site meets the definition of a major waste tire facility as that term is defined by PRC section 42808(b). A major waste tire facility is “a waste tire facility where, at any time, 5,000 or more waste tires are or will be stored, stockpiled, accumulated, or discarded.”

This site is legally allowed to store up to 499 waste tires without first obtaining a waste tire facility permit from CalRecycle.

To date, you have not acquired a major waste tire facility permit for this site.

CalRecycle inspected this site on November 13, 2023, as documented in Inspection Report IW-1935165, which is attached hereto and incorporated herein by reference as Appendix A and determined that approximately 21,944 waste tires were being stored on site.

CalRecycle issued a Notice of Violation to you as the Property Owner/Operator on November 13, 2023, as documented in the above inspection report, requiring all waste tires in excess of your authorized limit of 499 to be removed by December 13, 2023.

CalRecycle re-inspected this site on December 14, 2023, as documented in Inspection Report IW-1936542, which is attached hereto and incorporated herein by reference as Appendix A and determined that approximately 25,953 waste tires remained on site.

CalRecycle conducted a second re-inspection at this site on January 29, 2024, as documented in Inspection Report IW-1938358, which is attached hereto and incorporated herein by reference as Appendix A and determined that approximately 22,022 waste tires remained on site.

On May 10, 2024, Madera County Tire Enforcement staff inspected the site and observed zero waste or used tires.

As documented in the original CAO, you have been in violation of California Waste Tire Laws as prescribed by PRC section 42800 et seq. and 14 CCR section 18420 et seq.

Specifically, you have been in violation of:

- PRC section 42824 for accepting and storing more than 4,999 waste tires on this site without first obtaining a major waste tire facility permit.
- 14 CCR section 17351 (a), which requires the Operator to prepare a Fire Safety Plan for this facility and demonstrate that it was submitted to local fire official for review and approval.

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- 14 CCR section 17351 (d), which requires the Operator to have available an adequate water supply for use by the local fire authority.

CalRecycle is authorized to order waste tire facility Operators who are in violation of the aforementioned laws to clean up waste tire piles, abate the effects thereof, or otherwise remedy a case of threatened pollution or nuisance, pursuant to PRC section 42845(a).

Where there is no identified “Operator”, the Operator shall mean the “Owner”, pursuant to 14 CCR section 17225.755.

CalRecycle is authorized to seek administrative penalties of not less than five hundred dollars (\$500) and up to ten thousand dollars (\$10,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, against any person who violates any provision of Chapter 16 of Part 3 of Division 30 of the PRC, or any permit, rule, regulation, standard or requirement issued or adopted pursuant therefrom.

THEREFORE, PURSUANT TO PRC SECTION 42845, YOU ARE ORDERED TO:

1. This condition was determined to have been met on May 10, 2024. The condition as per the original CAO read as: Remove all waste and used tires from this site within 10 business days from the date of service of this Cleanup and Abatement Order (hereafter, “CAO” or “Order”), or within 10 business days provide CalRecycle with a reasonable schedule for compliance for CalRecycle’s consideration and approval in accordance with the following:
 - a. All waste tires (whole and/or passenger tire equivalents, pursuant to 14 CCR section 17225.770) and used tires shall be removed by a registered waste tire hauler, as prescribed by PRC section 42950 et seq. A completed Comprehensive Trip Log (CTL) form (CalRecycle 203) must accompany and document each load of waste and used tires removed and a copy of each completed CTL form must be submitted to CalRecycle within 45 days from the date of service of this CAO. Failure to comply with this provision may result in penalties, pursuant to PRC section 42962.
 - b. CalRecycle must approve the destination of all waste and used tires removed from this site to ensure that a registered waste tire hauler legally transports them to an

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approved facility. All waste and used tires removed from this site shall be transported to this approved destination.

2. Following confirmation by CalRecycle of compliance with removing all waste and used tires as required by paragraph 1 above, maintain a zero waste and used tire count for 60 days, unless CalRecycle confirms the following conditions are met:
 - a. You submit a permit application package to CalRecycle, which at minimum must include completed forms 500 through 503, and
 - b. You sign up for and use the electronic waste tire manifesting application provided by CalRecycle's contractor, Diversys, as your primary method of manifesting.
3. At no time between the date of service of this Amended CAO and the end of the zero waste and used tire period may you accept additional waste or used tires at this site unless the above requirements have been met.
4. After the zero waste and used tire period expires, maintain 499 or fewer waste tires onsite at all times, unless you first obtain a waste tire facility permit from CalRecycle. If at any time between now and July 9, 2024, you are found to be storing, stockpiling, or accumulating more than 499 waste tires without possessing a waste tire facility permit, you will be required to reduce the amount of waste and used tires onsite to zero. Following confirmation by CalRecycle of compliance with removing all waste and used tires you will be required to maintain that zero waste and used tire count for 30 days.
5. You shall reimburse CalRecycle for the cost of all inspections conducted within a year from the issuance of this Amended CAO that are in addition to those inspections required by statute or regulation. The cost shall include, but shall not be limited to, expenses incurred for preparing for the inspection, traveling to and from the inspection, and writing up the inspection reports, at the same amounts that are determined annually and approved for enforcement agents to be charged by CalRecycle.

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO PRC SECTIONS 42843, 42845, 42850 and 42850.1:

CalRecycle may seek penalties in the amount of not less than five hundred dollars (\$500) and up to ten thousand dollars (\$10,000) for each violation of a separate provision or, for continuing violations, for each day the violation continues, pursuant to PRC sections 42850 and 42850.1. Civil penalties may be imposed in a civil action or may be imposed administratively, pursuant to PRC section 42850 et seq. CalRecycle is authorized to calculate the accrual of civil penalties beginning with the first date of non-compliance.

If you do not complete or comply with the above actions ordered by this Amended CAO, CalRecycle may petition the superior court for injunctive relief to enforce this Amended CAO pursuant to PRC section 42845(d).

If a decision is made in favor of CalRecycle in an administrative or civil hearing in accordance with PRC section 42850 et seq., CalRecycle or its contractors may subsequently enter your property for the purposes of abatement or remediation without your consent, pursuant to PRC section 42846.5.

You have 10 business days from the date of service of this order to file a petition with CalRecycle raising any substantial issues that are appropriate for review. CalRecycle will review the petition and respond within 30 business days from the date of receipt by CalRecycle. Regardless of whether you file a petition, you must comply with this Order, as required by PRC section 42845.

If you fail to remove the tires as required by this Order by the required date, CalRecycle is authorized to expend available funds to perform any necessary cleanup, abatement, or remedial work, as set forth in PRC section 42845 et seq.

If CalRecycle expends funds to perform any cleanup, abatement, or remedial work, CalRecycle may seek cost reimbursement from you and any other responsible party acting as the Operator or Property Owner, pursuant to PRC section 42847.

Moreover, funds so expended by CalRecycle constitute a lien upon the real property owned by any responsible party that is subject to the remedial action, pursuant to PRC section 42847.5.

Nothing in this Amended CAO shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of yours or any other responsible party's past, current or future operations acting as the Operator and/or Property Owner. Notwithstanding compliance

with the terms of this Amended CAO, you may be required to take further actions as are necessary to protect the public health, safety, or the environment.

CalRecycle shall not be liable for injuries or damages to persons or property resulting from acts or omissions by you or any other responsible party acting as the Operator and/or Property Owner, or related parties in carrying out activities pursuant to this Amended CAO; nor shall CalRecycle be held as a party to any contract entered into by you or any other responsible party acting as Operator and/or Property Owner or their agent(s) in carrying out activities pursuant to this Amended CAO.

This Amended CAO does not relieve you or any other responsible party acting as the Operator and/or Property Owner from complying with all other local, state and federal requirements.

This Amended CAO may only be amended in writing by an authorized CalRecycle representative.

This Amended CAO shall become effective as of the date signed below.

Each provision of this Amended CAO shall remain effective and enforceable until stayed, modified, or suspended by CalRecycle.

If you have any questions about this Amended CAO, you may contact Ryan Galipeau of my staff at (916) 445-3957.

Dated this 20th day of May, 2024

Mark de Bie
Deputy Director
Waste Permitting, Compliance and Mitigation Division
Department of Resources Recycling and Recovery

**APPENDIX DOCUMENTS MAY BE
AVAILABLE THROUGH A PUBLIC
RECORDS REQUEST**