

TO BE ELIGIBLE FOR A REDUCED PENALTY AS SET FORTH BELOW, YOU MUST (1) CORRECT ALL ONGOING VIOLATIONS OF WASTE TIRE LAWS, INCLUDING BY SATISFYING ALL COMPLIANCE REQUIREMENTS COMMUNICATED TO YOU IN THE COVER LETTER TO THIS DOCUMENT; (2) SIGN THE SETTLEMENT AGREEMENT AND STIPULATED ADMINISTRATIVE DECISION FOR PENALTIES (BELOW) AND RETURN IT TO THE DEPARTMENT BY THE DUE DATE STATED BELOW, AND (3) REMIT PAYMENT OF THE REDUCED PENALTY SET FORTH BELOW (OR, IF APPLICABLE, REMIT FIRST INSTALLMENT UNDER AN AGREED-UPON PAYMENT PLAN).

DEPARTMENT ENFORCEMENT ORDER NUMBER: 2024-102462-PEN

RESPONDENTS: Tepeque Tires, Inc.
10076 Cedar Avenue
Bloomington, CA 92316

PUBLIC RESOURCES CODE (PRC) SECTION(S) VIOLATED: 42951, 42834

TITLE 14 OF THE CALIFORNIA CODE OF REGULATIONS (14 CCR) SECTION(S) VIOLATED: 17357, 18459.1.

VIOLATION PERIOD: Between April 26, 2023, and the date of this Agreement and Decision

DUE DATE FOR ACCEPTING SETTLEMENT OFFER: August 28, 2024

TOTAL REDUCED MONETARY PENALTY: \$3,700.00

**SETTLEMENT AGREEMENT AND
STIPULATED ADMINISTRATIVE DECISION FOR PENALTIES**

I. SETTLEMENT AGREEMENT

A. Respondent's Statement

Each of the undersigned representatives of the business entity identified above (the Business) makes the following statement on their own behalf and on behalf of the Business, with the intent to be legally bound by the admissions, waivers, representations, and acknowledgments herein:

I am an authorized representative of the Business. I acknowledge and understand the following:

1. The California Department of Resources Recycling and Recovery (Department or CalRecycle) alleges that the Business committed the above-referenced violations of waste tire laws (PRC sections 42800 et. seq, 42951 et. seq, and attendant regulations at 14 CCR), and I wish to resolve these allegations through this settlement agreement.

2. The waste tire laws authorize the Department to impose certain monetary penalties for violations of said laws. I further understand that I have the right to an administrative hearing through which I may contest the Department's imposition of such penalties against the Business.

3. Rather than contest the Department's allegations, I have chosen to waive my right to an administrative hearing and stipulate to certain factual findings and the imposition of a reduced monetary penalty against the Business.

4. I hereby consent to the Department issuing the Stipulated Administrative Decision set forth in section II as an administrative decision (the Decision) adopting the Stipulated Factual Findings set forth in subsection B, below, and the Stipulated Conclusions of Law and Imposition of Penalties set forth in subsection 0 (collectively, the Stipulations). If the Department issues the Decision, I will have waived my right to a hearing, and the Decision will be a valid, legally issued administrative decision and award of penalties against the Business. The Decision will also constitute proof of the facts and violations of waste tire laws as recited in the Stipulations.

5. Effective upon issuance of the Decision by the Department's Director (or the Director's delegate), the Business:

- a) admits that the Business committed and was responsible for the violations of waste tire laws as described in the Stipulations;
- b) accepts liability for the civil penalty as set forth in the Stipulations; and
- c) waives any and all procedural rights under California Government Code sections 11400 et. seq. and 11500 et. seq., including but not limited to:
 - i. the issuance and receipt of a written accusation describing the legal violations and formally requesting imposition of administrative penalties;
 - ii. the right to discovery;
 - iii. the right to an administrative hearing before an impartial hearing officer;
 - iv. the right to subpoena witnesses and evidence; and
 - v. the right to confront and cross-examine witnesses.

6. **If I fail to pay the reduced penalty set forth above and described in the below subsection C. Stipulated Conclusions of Law and Imposition of Penalties**, the Department may seek to impose against the Business the full penalties authorized under the waste tire laws. I understand that the waste tire laws authorize the Department to impose an administrative civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) per day per negligent violation, but; if the violation is intentional, the Department may impose a penalty of up to ten thousand dollars (\$10,000) per day per violation. The Department may also seek criminal penalties, including imprisonment in the county jail for not more than one year.

7. I understand that the Decision is not final and binding until it is approved and adopted by the Department, and that the Department may refuse to do so for any reason. I understand, for example, that the Department will refuse to approve and adopt the Decision, unless the Business demonstrates that it is no longer in violation of waste tire laws, including by performing all acts and satisfying all requirements communicated to the Business prior to my making of this statement. In the event the Department refuses to adopt the Decision, such that a full evidentiary hearing before the Department's Director (or the Director's delegate) or an Administrative Law Judge becomes necessary, the Director shall not be disqualified because of prior consideration of the Settlement Agreement.

8. I understand that I have the right to consult with counsel, and have had the opportunity to do so, prior to making this statement and agreeing to the Decision.

9. Neither the Department nor any other party has made any representations or promises of any kind, other than those contained in this statement and the Decision, to induce the Business to accept the Settlement Agreement.

10. This statement and the Decision constitute the entire understanding between the Business and the Department concerning the Department's allegations against the Business. There are no other restrictions, promises, warranties, or representations relating to the resolution of the allegations other than those set forth in the Decision.

11. I understand that neither this statement nor the Decision shall preclude the Department from using any enforcement mechanism, whether administrative, civil, or criminal, against the Business with respect to future violations of the waste tire laws by the Business.

12. To accept the Decision, I must submit this signed agreement along with a check or money order in the amount of the agreed-upon monetary penalty set forth above and in the Decision, unless the Department agrees in writing to an installment plan, in which case I must submit payments as required under that agreement. If I fail to make installment payments as agreed upon, the Department may seek to impose against the Business the full penalties authorized under the waste tire laws, as described in Paragraph 6.

13. In the event that the Department does not adopt the Decision, it will reimburse me for any payment I have already made toward the reduced penalty amount.

14. I acknowledge and understand that the Decision will have no effect on any outstanding obligations, such as outstanding fees, penalties, past due remittances, or any other legal duty, that the Business may have.

15. I acknowledge and understand that, once signed and adopted, this statement and the Decision are not confidential and are subject to the California Public Records Act, California Government Code section 6250 *et seq.*

B. STIPULATED FACTUAL FINDINGS

1. The Department has the authority to assess penalties for violations of any provision of Chapter 16 and Chapter 19 of Part 3 of Division 30 of the PRC, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to Chapter 16 or Chapter 19, pursuant to PRC sections 42850, 42850.1, and 42962.

2. On April 26, 2023, Department inspector Edgar Astorga inspected the Business and documented violations, including but not limited to, eight counts of hauling waste or used tires without holding a valid waste or used tire hauler registration (PRC section 42951), and failure to create and maintain records documenting tire activity at the site and failure to retain records for three years (14 CCR section 17357). The Business was issued a Notice of Violation (NOV) via inspection report IW-1927650, requiring the Business to comply with waste tire laws.

3. On August 2, 2023, Department inspector Edgar Astorga inspected the Business and documented violations, including but not limited to, failure to create and maintain records documenting tire activity at the site and failure to retain records for three years (14 CCR section 17357), and not posting your Tire Program Identification (TPID) Certificate in a conspicuous location (14 CCR section 18459.1). The Business was issued a NOV via inspection report IW-1931313, requiring the Business to comply with waste tire laws.

4. On October 4, 2023, Department inspector Edgar Astorga inspected the Business and documented violations, including but not limited to, failure to comply with the manifest system requirements for waste tire generators (14 CCR section 18462), and for failure to comply with the waste tire manifest system requirements (14 CCR section 18459). The Business was issued a NOV via inspection report IW-1933784, requiring the Business to comply with waste tire laws.

5. On March 25, 2024, Department inspector Edgar Astorga inspected the Business and documented violations, including but not limited to, accepting tires at a minor waste tire facility without first obtaining a permit (PRC section 42834), failure to create and maintain records

documenting tire activity at the site and retain for three years (14 CCR section 17357), and not posting your Tire Program Identification Certificate in a conspicuous location (14 CCR section 18459.1). The Business was issued a NOV via inspection report IW-1939999, requiring the Business to comply with waste tire laws. Since the inspection on April 26, 2023, the Business has not become compliant with waste tire laws. Certified mail receipts indicate this latest inspection report and NOV was delivered to the business owners Manuel Miranda and Marilou Miranda, and property owner Steve Wou, on April 4, 2024.

6. The Department’s inspection reports issued to this Business establish that the allegations by the Department concerning the violations of the California waste tire laws by the Business are true and accurate.

7. The Department therefore finds the following:

- a) As of **March 25, 2024**, the business has not complied with multiple sections of the waste tire laws.

C. STIPULATED CONCLUSIONS OF LAW AND IMPOSITION OF PENALTIES

1. Pursuant to the stipulation by the Business and the Department, the Department finds that the Business violated the following provisions of the waste tire laws during the periods indicated, and that the penalties indicated below are appropriate remedies for those violations, such that, upon payment of the penalties stated, Respondent’s legal duties pursuant to the waste tire laws shall be deemed discharged with respect to the violations from April 26, 2023 to the date of this Agreement and Stipulation.

| Violation | Violation Dates | Maximum Penalty | Violation Count | Total Maximum Penalty | Reduced Penalty |
|--|---|-----------------|-----------------|-----------------------|-----------------|
| Hauling waste or used tires without holding a valid waste or used tire hauler registration (PRC section 42951) | 04/26/2023 | Up to \$2,000 | 8 | \$14,000 | \$1,400 |
| Accepting tires at a minor waste tire facility without first obtaining a permit (PRC section 42834) | 03/25/2024 | \$5,000 | 1 | \$5,000 | \$500 |
| Failure to create records of tire activity at the site and maintain records for 3 years (14 CCR section 17357) | 04/26/2023 08/02/2023, 03/25/2024 | \$5,000 | 3 | \$15,000 | \$1,500 |
| TPID not posted in a conspicuous location (14 CCR section 18459.1) | 08/02/2023, 03/25/2024 | Up to \$2,000 | 2 | \$3,000 | \$300 |
| Total Penalty Without Reduction | | | | | \$37,000 |
| Total Reduced Penalty: | | | | | \$3,700 |

2. In the event that the Business fails to pay any portion of the above-stated penalties prior to issuance of this Decision, immediately upon issuance of this Decision, or pursuant to a separate agreement between the Business and the Department for payment in periodic installments, nothing in this Stipulated Administrative Decision for Penalties shall be construed to prevent the Department from pursuing any remedy authorized by the waste tire laws or any other law, including but not limited to, the imposition of full penalties authorized by PRC sections 42850 and 42850.1, 42962, and criminal penalties and imprisonment pursuant to PRC sections 42835.

II. STIPULATED ADMINISTRATIVE DECISION FOR PENALTIES

Department adopts the foregoing Stipulated Factual Facts and Stipulated Conclusions of Law and Imposition of Penalties as a decision of the Department, effective upon execution by the Director of CalRecycle or a CalRecycle officer authorized to act on the Director’s behalf. The Department files this decision pursuant to its authority to impose administrative civil penalties on operators and/or owners who violate waste tire laws (PRC section 42800 et seq., PRC section 42950 et. seq, and attendant regulations) and its authority to issue a decision by settlement pursuant to Government Code section 11415.60.

THE UNDERSIGNED KNOWINGLY AND VOLUNTARILY ENTER INTO THE ABOVE SETTLEMENT AGREEMENT AND STIPULATE TO THE ABOVE ADMINISTRATIVE DECISION AND PENALTY

Tepeque Tires, Inc.

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

For California Department of Resources Recycling and Recovery Use Only

STATEMENT BY DIRECTOR:

The foregoing Stipulated Administrative Decision and Penalty has been adopted by the California Department of Resources Recycling and Recovery as its final decision and order and is effective upon execution below by the Director.

IT IS SO ORDERED:

Dated: _____

Mark de Bie, Deputy Director
California Department of Resources Recycling and Recovery
