

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2006-2044-MSW-E **TCEQ ID:** RN103178372 **CASE NO.:** 31794

**RESPONDENT NAME:** Rod Packard dba Packard Tire Service

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Packard Tire Service, 9225 South Padre Island Drive, Corpus Christi, Nueces County</p> <p><b>TYPE OF OPERATION:</b> Used and new tire retail facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 30, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Michael Limos, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-5839; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896  <b>Respondent:</b> Mr. Rod Packard, Owner, Packard Tire Service, 9225 South Padre Island Drive, Corpus Christi, Texas 78418  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b>                      None</p> <p><b>Date of Investigation Relating to this Case:</b>                      September 22, 2006</p> <p><b>Date of NOE Relating to this Case:</b> November 8, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Two violations were documented.</p> <p><b>WASTE</b></p> <p>1) Failed to ensure that scrap tires or scrap tire pieces are transported by a registered transporter to an authorized facility. Specifically, Mr. Packard shipped 260 scrap tires transported by Wilke Tire Service, Inc. and 400 scrap tires transported by WT Tire Disposal. The tires were disposed of at Wilke Tire Service, Inc. and WT Tire Disposal. Neither Wilke Tire Service, Inc. nor WT Tire Disposal are authorized tire transporters or authorized disposal facilities [30 TEX. ADMIN. CODE § 328.56(b)].</p> <p>2) Failed to obtain the required scrap tire storage registration for a scrap tire generator who stores more than 500 scrap/used tires on the ground. Specifically, Mr. Packard was storing approximately 1440 scrap tires on the ground at the Facility [30 TEX. ADMIN. CODE § 328.56(d)(2)].</p>	<p><b>Total Assessed:</b> \$2,400</p> <p><b>Total Deferred:</b> \$480  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$102 (remaining \$1,818 to be paid in 18 monthly payments of \$101 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin use of a registered tire transporter to ship scrap tires or scrap tire pieces to an authorized facility and obtain manifests from the tire transporter, and maintain a record of each individual load of used, scrap tires, or tire pieces hauled off from the Facility;</p> <p>b. Within 60 days after the effective date of this Agreed Order, obtain a scrap tire storage registration from the Commission; and</p> <p>c. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 17, 2006

**TCEQ**

DATES	Assigned	13-Nov-2006	Screening	28-Nov-2006	EPA Due	
	PCW	29-Nov-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Rod Packard dba Packard Tire Service		
Reg. Ent. Ref. No.	RN103178372		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	31794	No. of Violations	2	
Docket No.	2006-2044-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Allison Echlin	
Multi-Media		EC's Team	EnforcementTeam 8	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	Subtotal 1	\$2,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	20% Enhancement	Subtotals 2, 3, & 7	\$400
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Notes: The Respondent received one Order for this site within the past five years.

<b>Culpability</b>	No	0% Enhancement	Subtotal 4	\$0
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Notes: Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

<b>Total EB Amounts</b>	\$458	0% Enhancement*	Subtotal 6	\$0
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Approx. Cost of Compliance: \$10,898  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	Final Subtotal	\$2,400
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	\$2,400
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<b>STATUTORY LIMIT ADJUSTMENT</b>	Final Assessed Penalty	\$2,400
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<b>DEFERRAL</b>	20% Reduction	Adjustment	-\$480
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited cases.

<b>PAYABLE PENALTY</b>	\$1,920
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Screening Date: 28-Nov-2006

Docket No. 2006-2044-MSW-E

PCW

Respondent: Rod Packard dba Packard Tire Service

Policy Revision 2 (September 2002)

Case ID No. 31794

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN103178372

Media [Statute]: Municipal Solid Waste

Enf. Coordinator: Alison Echlin

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received one Order for this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 28-Nov-2006

Docket No. 2006-2044-MSW-E

PCW

Respondent Rod Packard dba Packard Tire Service

Policy Revision 2 (September 2002)

Case ID No. 31794

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN103178372

Media [Statute] Municipal Solid Waste

Enf. Coordinator Alison Echlin

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 328.56(b)

Violation Description

Failed to ensure that scrap tires or scrap tire pieces are transported by a registered transporter to an authorized facility, as documented during an investigation conducted on September 22, 2006. Specifically, the Respondent shipped 260 scrap tires transported by Wilke Tire Service, Inc. and 400 scrap tires transported by WT Tire Disposal. The tires were disposed of at Wilke Tire Service, Inc. and WT Tire Disposal. Both Wilke Tire Service, Inc. and WT Tire Disposal are unauthorized tire transporters and unauthorized disposal facilities.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

67 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event was recommended from the September 22, 2006 investigation date to the November 28, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$38

Violation Final Penalty Total \$1,200

This violation Final Assessed Penalty (adjusted for limits) \$1,200

## Economic Benefit Worksheet

**Respondent:** Rod Packard dba Packard Tire Service  
**Case ID No.:** 31794  
**Reg. Ent. Reference No.:** RN103178372  
**Media:** Municipal Solid Waste  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$898	22-Sep-2006	26-Jul-2007	0.8	\$38	n/a	\$38
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

#### Notes for DELAYED costs

Estimated cost to transport and dispose of approximately 660 scrap tires at authorized facilities from the investigation date to the projected date of compliance. Estimates were calculated using disposal costs of \$80 per ton multiplied by the approximate weight of 660 tires at 11.22 tons.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$898

TOTAL

\$38

Screening Date 28-Nov-2006

Docket No. 2006-2044-MSW-E

PCW

Respondent Rod Packard dba Packard Tire Service

Policy Revision 2 (September 2002)

Case ID No. 31794

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN103178372

Media [Statute] Municipal Solid Waste

Enf. Coordinator Alison Echlin

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 328.56(d)(2)

Violation Description

Failed to obtain the required scrap tire storage registration for a scrap tire generator who stores more than 500 scrap/used tires on the ground, as documented during an investigation conducted on September 22, 2006. Specifically, the Respondent had approximately 1440 scrap tires on the ground at the facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 67

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$421

Violation Final Penalty Total \$1,200

This violation Final Assessed Penalty (adjusted for limits) \$1,200

## Economic Benefit Worksheet

**Respondent** Rod Packard dba Packard Tire Service  
**Case ID No.** 31794  
**Reg. Ent. Reference No.** RN103178372  
**Media** Municipal Solid Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$10,000	22-Sep-2006	26-Jul-2007	0.8	\$421	n/a	\$421
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register as a tire storage site from the investigation date to the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$421

# Compliance History

Customer/Respondent/Owner-Operator:	CN602696304	Rod Packard	Classification: AVERAGE	Rating: 36.50
Regulated Entity:	RN103178372	PACKARD TIRE SERVICE	Classification: POOR	Site Rating: 70.00
ID Number(s):	TIRES TIRES	REGISTRATION REGISTRATION	COT012 25032	
Location:	9225 S PADRE ISLAND DR, CORPUS CHRISTI, TX, 78418		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	November 14, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 14, 2001 to November 14, 2006			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Alison Echlin</u>	Phone:	<u>512-239-3308</u>	

## Site Compliance History Components

- |  |            |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes        |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No         |
| 3. If Yes, who is the current owner?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | N/A        |
| 5. When did the change(s) in ownership occur?  | N/A        |

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A	Effective Date: 03/06/2006	ADMINORDER 2004-0327-MSW-E
	Classification: Major	
	Citation: 30 TAC Chapter 328, SubChapter F 328.57(c)(3) 5B THC Chapter 361, SubChapter A 361.112(c)	
	Description: Failure to transport scrap tires to an authorized site.	
	Classification: Moderate	
	Citation: 30 TAC Chapter 328, SubChapter F 328.60(a) 5B THC Chapter 361, SubChapter A 361.112(a)	
	Description: Failure to obtain a scrap tire storage site registration prior to the storage of scrap tires.	
	Classification: Minor	
	Citation: 30 TAC Chapter 328, SubChapter F 328.56(a)(2)	
	Description: Failure to notify the executive director within 15 days of any changes to generator information.	

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/28/2003 (152212)

N/A

2 11/09/2006 (512160)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ROD PACKARD DBA PACKARD  
TIRE SERVICE  
RN103178372**

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§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2006-2044-MSW-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Rod Packard dba Packard Tire Service ("Mr. Packard") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Packard appear before the Commission and together stipulate that:

1. Mr. Packard owns and operates a used and new tire retail facility at 9225 South Padre Island Drive in Corpus Christi, Nueces County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and Mr. Packard agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Packard is subject to the Commission's jurisdiction.
4. Mr. Packard received notice of the violations alleged in Section II ("Allegations") on or about November 13, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Packard of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Four Hundred Dollars (\$2,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Packard has paid One Hundred Two Dollars (\$102) of the administrative penalty and Four



Hundred Eighty Dollars (\$480) is deferred contingent upon Mr. Packard's timely and satisfactory compliance with all the terms of this Agreed Order. If Mr. Packard fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Packard to pay all or part of the deferred penalty.

The remaining amount of One Thousand Eight Hundred Eighteen Dollars (\$1,818) of the administrative penalty shall be payable in 18 monthly payments of One Hundred One Dollars (\$101) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Packard fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Packard to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Packard to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Packard have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Packard has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, Mr. Packard is alleged to have:

1. Failed to ensure that scrap tires or scrap tire pieces are transported by a registered transporter to an authorized facility, in violation of 30 TEX. ADMIN. CODE § 328.56(b), as documented during an investigation conducted on September 22, 2006. Specifically, Mr. Packard shipped 260 scrap tires transported by Wilke Tire Service, Inc. and 400 scrap tires transported by WT Tire Disposal. The tires were disposed of at Wilke Tire Service, Inc. and WT Tire Disposal. Neither Wilke Tire Service, Inc. nor WT Tire Disposal are authorized tire transporters or authorized disposal facilities.



2. Failed to obtain the required scrap tire storage registration for a scrap tire generator who stores more than 500 scrap/used tires on the ground, in violation of 30 TEX. ADMIN. CODE § 328.56(d)(2), as documented during an investigation conducted on September 22, 2006. Specifically, Mr. Packard was storing approximately 1440 scrap tires on the ground at the Facility.

### III. DENIALS

Mr. Packard generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Packard pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Packard's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Rod Packard dba Packard Tire Service, Docket No. 2006-2044-MSW-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that Mr. Packard shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, begin use of a registered tire transporter to ship scrap tires or scrap tire pieces to an authorized facility and obtain manifests from the tire transporter, and maintain a record of each individual load of used, scrap tires, or tire pieces hauled off from the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 328.56(b) and 328.58(a);
  - b. Within 60 days after the effective date of this Agreed Order, obtain a scrap tire storage registration from the Commission, in accordance with 30 TEX. ADMIN. CODE § 328.56(d)(2); and
  - c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No(s). 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the



submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Municipal Solid Waste Section, Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Packard. Mr. Packard is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Mr. Packard fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Packard's failure to comply is not a violation of this Agreed Order. Mr. Packard shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Packard shall notify the Executive Director within seven days after Mr. Packard becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Packard shall be made in writing to the Executive Director. Extensions are not effective until Mr. Packard receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Packard in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.



8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Packard, or three days after the date on which the Commission mails notice of the Order to Mr. Packard, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

6/27/07  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

2/22/07  
\_\_\_\_\_  
Date

**ROD PACKARD**  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Rod Packard dba Packard Tire Service

owner  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

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