

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48541  
Billy Ray Burrow d/b/a Tinkers Tires  
RN106834450  
Docket No. 2014-0524-MSW-E

**Order Type:**

Agreed Order

**Media:**

Municipal Solid Waste (MSW) – Scrap Tires

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

908 North Twin Creek Drive, Suite C, Killeen, Bell County

**Type of Operation:**

unauthorized scrap tire storage, transportation, and processing facility

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** August 28, 2015

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$28,875

**Deferred for Financial Inability to Pay:** \$27,675

**Total Paid to General Revenue:** \$100

**Total Due to General Revenue:** \$1,100

Payment Plan: 11 payments of \$100 each

**Compliance History Classifications:**

Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**Billy Ray Burrow d/b/a Tinkers Tires**

RN106834450

Docket No. 2014-0524-MSW-E

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** February 26, 2014  
**Date(s) of NOV(s):** August 19, 2013; January 3, 2014  
**Date(s) of NOE(s):** June 25, 2014

**Violation Information**

1. Failed to obtain a scrap tire transporter registration [30 TEX. ADMIN. CODE § 328.57(c)(1)].
2. Failed to maintain records of scrap tire transportation using a manifest system [30 TEX. ADMIN. CODE § 328.57(c)(2)].
3. Failed to obtain a registration to process scrap tires [30 TEX. ADMIN. CODE § 328.63(c)].
4. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers [TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE § 328.60(a)].

**Corrective Actions/Technical Requirements****Corrective Action(s) Completed:**

Respondent disposed of all remaining scrap tires as of April 9, 2014.

**Technical Requirements:**

N/A – Respondent no longer operates the facility.

**Litigation Information**

**Date Petition(s) Filed:** December 1, 2014  
**Date Answer Filed:** December 10, 2014  
**SOAH Referral Date:** February 13, 2015  
**Hearing Date(s):**  
Preliminary hearing: April 2, 2015 (waived)  
Evidentiary hearing: August 6, 2015 (scheduled)  
**Settlement Date:** July 14, 2015

**Contact Information**

**TCEQ Attorneys:** David A. Terry, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Michael Meyer, Enforcement Division, (512) 239-4492  
**TCEQ Regional Contact:** David Mann, Waco Regional Office, (254) 751-0335  
**Respondent Contact:** Billy Ray Burrow, 3202 Little Nolan Road, Killeen, Texas 76542  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	24-Mar-2014		
	<b>PCW</b>	18-Nov-2014	<b>Screening</b>	9-Apr-2014
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Billy Ray Burrow dba Tinkers Tires
<b>Reg. Ent. Ref. No.</b>	RN106834450
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	48541	<b>No. of Violations</b>	4
<b>Docket No.</b>	2014-0524-MSW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Michael Meyer
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$26,250
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	10.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b>	\$2,625

Notes: Enhancement for two NOVs with same or similar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
Notes	The Respondent does not meet the culpability criteria.			

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$718	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$10,100		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$28,875
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes			

**Final Penalty Amount** \$28,875

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$28,875
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction)				
Notes	Deferral not offered for non-expedited settlement.			

<b>PAYABLE PENALTY</b>	\$28,875
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**Screening Date** 9-Apr-2014

**Docket No.** 2014-0524-MSW-E

**PCW**

**Respondent** Billy Ray Burrow dba Tinkers Tires

*Policy Revision 3 (September 2011)*

**Case ID No.** 48541

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN106834450

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Michael Meyer

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	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 ( <i>number of judgments or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	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)**

**>> Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)**

**>> Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)**

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for two NOVs with same or similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)**

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%**

Screening Date 9-Apr-2014

Docket No. 2014-0524-MSW-E

PCW

Respondent Billy Ray Burrow dba Tinkers Tires

Policy Revision 3 (September 2011)

Case ID No. 48541

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106834450

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 328.57(c)(1)

Violation Description Failed to obtain a scrap tire transporter registration. Specifically, the Respondent has been transporting scrap tires without a scrap tire transporter registration.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 42

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the February 26, 2014 investigation to the April 9, 2014 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$711

Violation Final Penalty Total \$8,250

This violation Final Assessed Penalty (adjusted for limits) \$8,250

# Economic Benefit Worksheet

**Respondent** Billy Ray Burrow dba Tinkers Tires  
**Case ID No.** 48541  
**Reg. Ent. Reference No.** RN106834450  
**Media 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
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	14-Jun-2013	15-Nov-2014	1.42	\$711	n/a	\$711
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to obtain a scrap tire management registration for the storage, transportation and processing of scrap tires. The date required is the initial investigation date. The final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$10,000

**TOTAL** \$711

**Screening Date** 9-Apr-2014  
**Respondent** Billy Ray Burrow dba Tinkers Tires  
**Case ID No.** 48541  
**Reg. Ent. Reference No.** RN106834450  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Michael Meyer

**Docket No.** 2014-0524-MSW-E

**PCW**

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

**Violation Number** 2

**Rule Cite(s)**

30 Tex. Admin. Code § 328.57(c)(2)

**Violation Description**

Failed to maintain records of scrap tire transportation using a manifest system. Specifically, the Respondent was not able to provide manifests tracking the collection and disposal activities at the operation.

**Base Penalty** \$25,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0.0%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

**Percent** 15.0%

Matrix Notes

100% of the rule requirement was not met.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 1

1 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$3,750

One single event is recommended.

**Good Faith Efforts to Comply**

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$3,750

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$7

**Violation Final Penalty Total** \$4,125

**This violation Final Assessed Penalty (adjusted for limits)** \$4,125

## Economic Benefit Worksheet

**Respondent** Billy Ray Burrow dba Tinkers Tires  
**Case ID No.** 48541  
**Reg. Ent. Reference No.** RN106834450  
**Media Violation No.** Municipal Solid Waste  
 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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	14-Jun-2013	15-Nov-2014	1.42	\$7	n/a	\$7
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain records of scrap tire transportation using a manifest system. The date required is the investigation date. The final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$7

**Screening Date** 9-Apr-2014  
**Respondent** Billy Ray Burrow dba Tinkers Tires  
**Case ID No.** 48541  
**Reg. Ent. Reference No.** RN106834450  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Michael Meyer

**Docket No.** 2014-0524-MSW-E

**PCW**

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 328.63(c)

**Violation Description**

Failed to obtain a registration to process scrap tires. Specifically, the Respondent has been processing scrap tires without proper authorization.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

**Percent**

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events

Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Two monthly events are recommended from the February 26, 2014 investigation to the April 9, 2014 screening date.

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

**Notes**

The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Billy Ray Burrow dba Tinkers Tires  
**Case ID No.** 48541  
**Reg. Ent. Reference No.** RN106834450  
**Media Violation No.** Municipal Solid Waste  
 3

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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in violation no. 1.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

**TOTAL** \$0

Screening Date 9-Apr-2014

Docket No. 2014-0524-MSW-E

PCW

Respondent Billy Ray Burrow dba Tinkers Tires

Policy Revision 3 (September 2011)

Case ID No. 48541

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106834450

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 328.60(a) and Tex. Health & Safety Code § 361.112(a)

Violation Description

Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers. Specifically, approximately 1,800 scrap tires were observed on the ground at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

42 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended on documentation of the violation during the February 26, 2014 investigation to the April 9, 2014 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$8,250

This violation Final Assessed Penalty (adjusted for limits) \$8,250

# Economic Benefit Worksheet

**Respondent** Billy Ray Burrow dba Tinkers Tires  
**Case ID No.** 48541  
**Reg. Ent. Reference No.** RN106834450  
**Media Violation No.** 4

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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in violation no. 1.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

**TOTAL** \$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN604345777, RN106834450, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN604345777, Burrow, Billy Ray

**Classification:** SATISFACTORY

**Rating:** 13.00

**Regulated Entity:** RN106834450, Tinkers Tires

**Classification:** SATISFACTORY

**Rating:** 13.00

**Complexity Points:** 0

**Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 908 N TWIN CREEK DR STE C KILLEEN, TX 76543-4240, BELL COUNTY

**TCEQ Region:** REGION 09 - WACO

**ID Number(s):**

**Compliance History Period:** September 01, 2008 to August 31, 2013

**Rating Year:** 2013

**Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** April 09, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** April 09, 2009 to April 09, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Michael Meyer

**Phone:** (512) 239-4492

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

#### **1 Date: 08/19/2013 (1100934)**

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 328, SubChapter F 328.57(c)(1)

Description: Failure to register as a tire transporter with the TCEQ prior to conducting business.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 328, SubChapter F 328.57(c)(2)

Description: Failure to use manifests to document the removal and management of all scrap tires transported.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 328, SubChapter F 328.63(c)

Description: Failure to register as a scrap tire facility prior to processing scrap tires.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)

5B THSC Chapter 361, SubChapter A 361.112(a)

Description: Failure to store less than 500 scrap tires on the ground or 2,000 scrap tires in enclosed and lockable containers at a facility without having obtained a scrap tire storage site registration.

#### **2 Date: 01/03/2014 (1139660)**

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 328, SubChapter F 328.57(c)(1)

Description: Failure to register as a tire transporter with the TCEQ prior to conducting business.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 328, SubChapter F 328.57(c)(2)

Description: Failure to use manifests to document the removal and management of all scrap tires transported.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 328, SubChapter F 328.63(c)

Description: Failure to register as a scrap tire facility prior to processing scrap tires.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)

5B THSC Chapter 361, SubChapter A 361.112(a)

Description: Failure to store less than 500 scrap tires on the ground or 2,000 scrap tires in enclosed and lockable containers at a facility without having obtained a scrap tire storage site registration.

**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  
BILLY RAY BURROW DBA  
TINKERS TIRES;  
RN106834450**

**§  
§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER**

**DOCKET NO. 2014-0524-MSW-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Billy Ray Burrow d/b/a Tinkers Tires ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulates that:

1. Respondent operated an unauthorized scrap tire storage, transportation, and processing facility located at 908 North Twin Creek Drive, Suite C in Killeen, Bell County, Texas (the "Facility"). The Facility contained and/or involved the management of municipal solid waste ("MSW"), including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, 7.070, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of twenty-eight thousand eight hundred seventy-five dollars (\$28,875.00) is assessed by the Commission in settlement of the violations alleged in Section II. The Revenue Operations Section of TCEQ's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay all or part of the penalty. Therefore, twenty-seven thousand six hundred seventy-five dollars (\$27,675.00) of the penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions contained in this Order.

Respondent paid one hundred dollars (\$100.00) of the one thousand two hundred dollar (\$1,200.00) undeferred penalty. The remaining amount of one thousand one hundred dollars (\$1,100.00) of the undeferred penalty shall be paid in eleven (11) monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to

timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
6. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that Respondent no longer operates the Facility and disposed of all remaining scrap tires as of April 9, 2014.

## **II. ALLEGATIONS**

1. During an investigation conducted on February 26, 2014, an investigator documented that Respondent:
  - a. Failed to obtain a scrap tire transporter registration, in violation of 30 TEX. ADMIN. CODE § 328.57(c)(1). Specifically, Respondent transported scrap tires without a scrap tire transporter registration;
  - b. Failed to maintain records of scrap tire transportation using a manifest system, in violation of 30 TEX. ADMIN. CODE § 328.57(c)(2). Specifically, Respondent did not provide manifests tracking the collection and disposal activities at the Facility;
  - c. Failed to obtain a registration to process scrap tires, in violation of 30 TEX. ADMIN. CODE § 328.63(c). Specifically, Respondent was processing scrap tires without proper authorization; and
  - d. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers, in violation of TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE § 328.60(a). Specifically, approximately 1,800 scrap tires were observed on the ground at the Facility.

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

#### IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: Billy Ray Burrow d/b/a Tinkers Tires, Docket No. 2014-0524-MSW-E" to:  

Financial Administration Division, Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner,

person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date of hand delivery of the fully executed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of the fully executed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

August 31, 2015  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature - Billy Ray Burrow  
3202 Little Nolan Road  
Killeen, Texas 76542

7/14/2015  
Date

If mailing address has changed, please check this box and provide the new address below:

\_\_\_\_\_