

**Gulf Coast Recycling, LLC**  
**RN103077277**  
**Docket No. 2014-1564-MSW-E**

**Order Type:**

Default Order (SOAH preliminary hearing)

**Media:**

Municipal Solid Waste (MSW) – Scrap Tires

**Small Business:**

Yes

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

1950 E. Corral Ave., Kingsville, Kleberg County

**Type of Operation:**

metal recycling collection center

**Other Significant Matters:**

|   |   |
|---|---|
| Additional Pending Enforcement Actions: | None  |
| Past-Due Penalties:                     | None  |
| Past-Due Fees:                          | \$263.50 (SWGP Acct. No. 20042361; referred for collection) |
| Other:                                  | None  |
| Interested Third-Parties:               | None  |

**Texas Register Publication Date:** August 28, 2015**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$37,768**Total Paid to General Revenue:** \$0**Total Due to General Revenue:** \$37,768**Compliance History Classifications:**

Person/CN –HIGH

Site/RN – HIGH

**Major Source:** Yes**Statutory Limit Adjustment:** None**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** N/A**Date(s) of Investigation:** July 28, 2014**Date(s) of NOV(s):** N/A**Date(s) of NOE(s):** October 17, 2014

**Gulf Coast Recycling, LLC**  
**RN103077277**  
**Docket No. 2014-1564-MSW-E**

**Violation Information**

1. Failed to obtain the completed manifests within 60 days after the scrap tires or tire pieces were transported off-site by the transporter, and failed to notify the TCEQ of the transporter's failure to return completed manifests within three months after the off-site transportation of the used or scrap tires or tire pieces [30 TEX. ADMIN. CODE § 328.58(d) and (e)].
2. Failed to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 used or scrap tires (or weight equivalent tire pieces or any combination thereof) in trailers or in enclosed and lockable containers (approx. 35,175 scrap tires) [30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately, cease accepting scrap tires at the Facility until the required TCEQ registration is obtained.
2. Within 30 days:
  - a. Develop and implement procedures to ensure that all scrap tire manifests are properly completed and returned within 60 days after the scrap tires have been transported off-site;
  - b. Develop and implement procedures to ensure that notification is provided to the TCEQ for all manifests that are not properly completed and returned by the transporter; and
  - c. Either obtain a scrap tire registration or reduce the number of used or scrap tires being stored on-site to 500 tires (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 tires (or weight equivalent tire pieces or any combination thereof) in trailers, or in enclosed and lockable containers.
3. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

|                                   |                          |
|-----------------------------------|--------------------------|
| <b>Date Petition(s) Filed:</b>    | February 23, 2015        |
| <b>Date Green Card(s) Signed:</b> | February 25, 2015        |
| <b>Date Answer(s) Filed:</b>      | April 2, 2015            |
| <b>SOAH Referral Date(s):</b>     | May 12, 2015             |
| <b>Hearing Date(s):</b>           |                          |
| Preliminary Hearing:              | July 2, 2015 (defaulted) |

**Contact Information**

**TCEQ Attorneys:** Meaghan M. Bailey, Litigation Division, (512) 239-3400  
 Lena Roberts, Litigation Division, (512) 239-3400  
 Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Danielle Porras, Enforcement Division, (713)767.3682

**TCEQ Regional Contact:** Michelle Phillips, Corpus Christi Regional Office, (361)825.3100

**Respondent Contact:** Brandon Menn, President, Gulf Coast Recycling, LLC, 1950 E. Corral Ave., Kingsville, Texas 78363



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

|              |                 |             |                  |             |                |  |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 20-Oct-2014 | <b>Screening</b> | 21-Oct-2014 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 20-Jan-2015 |                  |             |                |  |

|  |                           |
|--|---------------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                           |
| <b>Respondent</b>                      | Gulf Coast Recycling, LLC |
| <b>Reg. Ent. Ref. No.</b>              | RN103077277               |
| <b>Facility/Site Region</b>            | 14-Corpus Christi         |
| <b>Major/Minor Source</b>              | Major                     |

|  |                 |                              |                    |
|--|-----------------|------------------------------|--------------------|
| <b>CASE INFORMATION</b>                |                 | <b>No. of Violations</b>     | 2                  |
| <b>Enf./Case ID No.</b>                | 49519           | <b>Order Type</b>            | 1660               |
| <b>Docket No.</b>                      | 2014-1564-MSW-E | <b>Government/Non-Profit</b> | No                 |
| <b>Media Program(s)</b>                | Waste Tires     | <b>Enf. Coordinator</b>      | Danielle Porras    |
| <b>Multi-Media</b>                     |                 | <b>EC's Team</b>             | Enforcement Team 7 |
| <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> | \$37,500 |
|---|-------------------|----------|

### 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> | -10.0% Reduction | <b>Subtotals 2, 3, &amp; 7</b> | -\$3,750 |
|---------------------------|------------------|--------------------------------|----------|

Notes: Reduction due to high performer classification.

|                    |    |                  |                   |     |
|--------------------|----|------------------|-------------------|-----|
| <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 |
|--|-------------------|-----|

|                         |                   |                   |     |
|-------------------------|-------------------|-------------------|-----|
| <b>Economic Benefit</b> | 0.0% Enhancement* | <b>Subtotal 6</b> | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts: \$9,306  
 Estimated Cost of Compliance: #NAME?  
 \*Capped at the Total EB \$ Amount

|                             |                       |          |
|-----------------------------|-----------------------|----------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$33,750 |
|-----------------------------|-----------------------|----------|

|   |       |                   |         |
|---|-------|-------------------|---------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 11.9% | <b>Adjustment</b> | \$4,018 |
|---|-------|-------------------|---------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with violation no. 1 and to offset the reduction for high performer classification.

|                             |          |
|-----------------------------|----------|
| <b>Final Penalty Amount</b> | \$37,768 |
|-----------------------------|----------|

|                                   |                               |          |
|-----------------------------------|-------------------------------|----------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$37,768 |
|-----------------------------------|-------------------------------|----------|

|                 |                |                   |     |
|-----------------|----------------|-------------------|-----|
| <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> | \$37,768 |
|------------------------|----------|

**Screening Date** 21-Oct-2014

**Docket No.** 2014-1564-MSW-E

**PCW**

**Respondent** Gulf Coast Recycling, LLC

Policy Revision 4 (April 2014)

**Case ID No.** 49519

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN103077277

**Media [Statute]** Waste Tires

**Enf. Coordinator** Danielle Porras

### 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> )  | 0                 | 0%      |
|                               | 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)** 0%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

>> **Compliance History Summary**

**Compliance History Notes**

Reduction due to high performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** -10%

**Screening Date** 21-Oct-2014 **Docket No.** 2014-1564-MSW-E **PCW**  
**Respondent** Gulf Coast Recycling, LLC *Policy Revision 4 (April 2014)*  
**Case ID No.** 49519 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN103077277  
**Media [Statute]** Waste Tires  
**Enf. Coordinator** Danielle Porras

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 328.58(d) and (e)  
**Violation Description** Failed to obtain the completed manifests within 60 days after the scrap tires or tire pieces were transported off-site by the transporter. Also, failed to notify the TCEQ of the transporter's failure to return completed manifests within three months after the off-site transportation of the used or scrap tires or tire pieces. Specifically, manifests dated August 15, 2012, December 5, 2012, April 5, 2013, July 19, 2013, December 15, 2013, January 8, 2014, and June 19, 2014 were missing signatures from the authorized facility accepting delivery of the used or scrap tires or tire pieces.

**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 7 85 Number of violation days

*mark only one with an x*

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

**Violation Base Penalty** \$26,250

Seven single events are recommended for unsigned manifests.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

|               | Before NOE/NOV | NOE/NOV to EDPRP/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** \$26,250

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$293 **Violation Final Penalty Total** \$26,438

**This violation Final Assessed Penalty (adjusted for limits)** \$26,438

# Economic Benefit Worksheet

**Respondent** Gulf Coast Recycling, LLC  
**Case ID No.** 49519  
**Reg. Ent. Reference No.** RN103077277  
**Media** Waste Tires  
**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    | \$250 | 28-Jul-2014 | 17-Jul-2015 | 0.97 | \$12 | n/a | \$12 |
| 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)        | \$250 | 28-Jul-2014 | 17-Jul-2015 | 0.97 | \$12 | n/a | \$12 |

**Notes for DELAYED costs**  
 Estimated costs to submit completed manifests and develop and implement procedures to ensure that manifests are properly completed and returned to the Respondent, and that notification is provided to the TCEQ for all manifests that are not properly completed and returned to the Respondent by the transporter. The Date Required is the investigation date and 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]    | \$250 | 8-Jan-2014 | 28-Jul-2014 | 1.47 | \$18 | \$250 | \$268 |
| Other (as needed)             |       |            |             | 0.00 | \$0  | \$0   | \$0   |

**Notes for AVOIDED costs**  
 Estimated costs to submit notification to the TCEQ for all manifests that are not properly completed and returned to the Respondent by the transporter. The Date Required is the date of the first unsigned manifest after ownership change and the Final Date is the investigation date.

|                                   |       |              |       |
|-----------------------------------|-------|--------------|-------|
| <b>Approx. Cost of Compliance</b> | \$750 | <b>TOTAL</b> | \$293 |
|-----------------------------------|-------|--------------|-------|

**Screening Date** 21-Oct-2014  
**Respondent** Gulf Coast Recycling, LLC  
**Case ID No.** 49519  
**Reg. Ent. Reference No.** RN103077277  
**Media [Statute]** Waste Tires  
**Enf. Coordinator** Danielle Porras

**Docket No.** 2014-1564-MSW-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number** 2

**Rule Cite(s)**

30 Tex. Admin. Code §§ 328.56(d)(2) and 328.60(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 (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 used or scrap tires (or weight equivalent tire pieces or any combination thereof) in trailers, or in enclosed and lockable containers. Specifically, approximately 35,175 scrap tires were stored in a pile 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 3

85 Number of violation days

*mark only one with an x*

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      | x |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event |   |

**Violation Base Penalty** \$11,250

Three monthly events are recommended from the July 28, 2014 investigation to the October 21, 2014 screening date.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

|               | Before NOE/NOV | NOE/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** \$11,250

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

**Statutory Limit Test**

**Estimated EB Amount** \$9,014

**Violation Final Penalty Total** \$11,330

**This violation Final Assessed Penalty (adjusted for limits)** \$11,330

# Economic Benefit Worksheet

**Respondent** Gulf Coast Recycling, LLC  
**Case ID No.** 49519  
**Reg. Ent. Reference No.** RN103077277  
**Media** Waste Tires  
**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                |           |             |             | 0.00 | \$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     | \$175,875 | 28-Jul-2014 | 17-Jul-2015 | 0.97 | \$8,529 | n/a | \$8,529 |
| Permit Costs             | \$10,000  | 28-Jul-2014 | 17-Jul-2015 | 0.97 | \$485   | n/a | \$485   |
| Other (as needed)        |           |             |             | 0.00 | \$0     | n/a | \$0     |

Notes for DELAYED costs: Estimated cost to register the Facility as a scrap tire storage facility or to dispose of the tires (\$5/tire) at an authorized facility. The Date Required is the investigation date and 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 | \$185,875 | <b>TOTAL</b> | \$9,014 |
|----------------------------|-----------|--------------|---------|

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

**PENDING** Compliance History Report for CN604502229, RN103077277, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN604502229, Gulf Coast Recycling, LLC      **Classification:** HIGH      **Rating:** 0.00

**Regulated Entity:** RN103077277, Gulf Coast Recycling- Kingsville      **Classification:** HIGH      **Rating:** 0.00

**Complexity Points:** 6      **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 1950 E CORRAL AVE KINGSVILLE, TX 78363-4139, KLEBERG COUNTY

**TCEQ Region:** REGION 14 - CORPUS CHRISTI

**ID Number(s):** **TIRES REGISTRATION COT0004**      **STORMWATER PERMIT TXR05BZ16**  
**MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER UNA455140072**  
**MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER COT0004**

**Compliance History Period:** September 01, 2009 to August 31, 2014      **Rating Year:** 2014      **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** October 21, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 21, 2009 to October 21, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Danielle Porras      **Phone:** (713) 767-3682

## Site and Owner/Operator History:

- 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/operator of the site during the compliance period?      YES
- 3) If **YES** for #2, who is the current owner/operator?      Gulf Coast Recycling, LLC OWNER OPERATOR since 12/30/2013  
MORALES, RUBEN OWNER OPERATOR since 9/1/2009
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)?      GARZA, JUAN, OWNER OPERATOR, to 9/1/2009
- 5) If **YES**, when did the change(s) in owner or operator occur?      9/1/2009

## 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.

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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
GULF COAST RECYCLING, LLC;  
RN103077277**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2014-1564-MSW-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Gulf Coast Recycling, LLC ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Respondent owns and operates a metal recycling collection center located at 1950 E. Corral Avenue in Kingsville, Kleberg County, Texas (the "Facility"). The Facility contains and/or involves the management of municipal solid waste ("MSW"), including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on July 28, 2014, an investigator documented that Respondent:
  - a. Failed to obtain the completed manifests within 60 days after the scrap tires or tire pieces were transported off-site by the transporter. Also, failed to notify the TCEQ of the transporter's failure to return completed manifests within three months after the off-site transportation of the used or scrap tires or tire pieces. Specifically, manifests dated August 15, 2012, December 5, 2012, April 5, 2013, July 19, 2013, December 15, 2013, January 8, 2014, and June 19, 2014 were missing signatures from the authorized Facility accepting delivery of the used or scrap tires or tire pieces; and
  - b. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 used or scrap tires (or weight equivalent tire pieces or any combination thereof) in trailers or in enclosed and lockable containers. Specifically, approximately 35,175 scrap tires were stored in a pile at the Facility.
3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Gulf Coast Recycling, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on February 23, 2015.
4. Respondent filed an answer requesting a hearing on April 2, 2015, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on May 12, 2015.

5. On June 2, 2015, the TCEQ Chief Clerk mailed notice of the preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
6. On July 2, 2015, the Administrative Law Judge ("ALJ") convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
7. On July 23, 2015, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 1 so that TCEQ may dispose of this case on a default basis.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain the completed manifests within 60 days after the scrap tires or tire pieces were transported off-site by the transporter, and failed to notify the TCEQ of the transporter's failure to return completed manifests within three months after the off-site transportation of the used or scrap tires or tire pieces, in violation of 30 TEX. ADMIN. CODE § 328.58(d) and (e).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 used or scrap tires (or weight equivalent tire pieces or any combination thereof) in trailers or in enclosed and lockable containers, in violation of 30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a).
4. As evidenced by Finding of Fact No. 4, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
5. As evidenced by Finding of Fact No. 5, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
6. As evidenced by Findings of Fact Nos. 6 and 7, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106(b).
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of thirty-seven thousand seven hundred sixty-eight dollars (\$37,768.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of thirty-seven thousand seven hundred sixty-eight dollars (\$37,768.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Gulf Coast Recycling, LLC; Docket No. 2014-1564-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
3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, cease accepting scrap tires at the Facility until the required TCEQ registration is obtained, in accordance with 30 TEX. ADMIN. CODE §§ 328.56 and 328.60.
  - b. Within 30 days after the effective date of this Order:
    - i. Develop and implement procedures to ensure that all scrap tire manifests are properly completed and returned within 60 days after the scrap tires have been transported off-site, in accordance with 30 TEX. ADMIN. CODE § 328.58(d);
    - ii. Develop and implement procedures to ensure that notification is provided to the TCEQ for all manifests that are not properly completed and returned by the transporter, in accordance with 30 TEX. ADMIN. CODE § 328.58(e); and
    - iii. Either obtain a scrap tire registration, in accordance with 30 TEX. ADMIN. CODE §§ 328.56 and 328.60, or reduce the number of used or scrap tires being stored on-site to 500 tires (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 tires (or weight equivalent tire pieces or any combination thereof) in trailers, or in enclosed and lockable containers, in accordance with 30 TEX. ADMIN. CODE §§ 328.56 and 328.60.
  - c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a. through 3.b.iii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall 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."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Waste Section Manager  
Texas Commission on Environmental Quality  
Corpus Christi Regional Office  
6300 Ocean Drive, Unit 5839  
Corpus Christi, Texas 78412-5839

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. 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.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF MEAGHAN M. BAILEY**

**STATE OF TEXAS**

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**COUNTY OF TRAVIS**

"My name is Meaghan M. Bailey. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

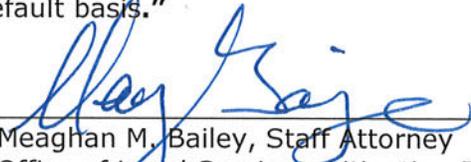
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Gulf Coast Recycling, LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 23, 2015.

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Meaghan M. Bailey, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Meaghan M. Bailey, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Subscribed and sworn to before me on this 24<sup>th</sup> day of July, A.D. 2015.



Notary without Bond

  
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Notary Public, State of Texas