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Tracking the Fate of Scrap Tires in Texas: An Audit Report

Tracking the Fate of Scrap Tires in Texas: An Audit Report

Prepared by
Field Operations Division

SFR-078/02
December 2002



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This report is published as required under
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Preface

Senate Bill 1, Article VI, Rider 34, 77th Legislature, states in part:

Waste Tires. Out of the Amounts appropriated above, the Texas Natural Resource Conservation Commission [now the Texas Commission on Environmental Quality] shall enforce statutory requirements relating to waste, scrap, or used tires. It is the intent of the Legislature that all reasonable steps be taken to minimize the illegal storage, transport, and disposal of waste or scrap tires. The commission shall audit or otherwise monitor businesses that sell, transport, or store such tires and identify illegal or improper activities as well as study methods for achieving a greater level of compliance for tire disposal within the State of Texas. The commission also shall seek opportunities for coordination with other agencies, such as the Comptroller of Public Accounts, through interagency agreements or contracts. Cooperating agencies would use routine contacts with taxpayers during audits or other activity to obtain copies of tire manifests or other information relating to tire transport or storage in accordance with Health and Safety Code Section (§) 361.112. Such agreements should provide that the coordinating agency transmit such records to the commission for review and analysis and should be designed to have minimal costs for the coordinating agency. The commission shall submit a report no later than December 1, 2002, to the Legislative Budget Board and the Governor detailing their efforts and findings in accordance with this provision.

This report to the Legislature is provided in compliance with the rider.

Scrap Tire Management in Texas

The Texas Commission on Environmental Quality (TCEQ) oversees the collection, processing, and recycling or disposal of over 24 million tires discarded each year in Texas. Under this regulatory program, scrap tires must be hauled by a registered transporter to an authorized facility. All facilities must maintain manifests showing the disposition of the scrap tires.

While this program focuses on the ongoing need to prevent the illegal disposal of scrap tires, it is separate from the TCEQ's efforts to reduce the large stockpiles created in years past. To learn more about the problems posed by current stockpiles and some steps the TCEQ is taking in collaboration with the Texas Department of Transportation to ensure that these stockpiles are disposed of properly or put to beneficial use, see *Progress Report on Using Scrap Tires and Crumb Rubber in Highway Construction Projects* (TCEQ publication SFR-069/03).¹

The program described in this report only monitors the handling of newly generated scrap tires and enforces environmental regulations to ensure that the illegal disposal of scrap tires continues to decrease throughout the state.

Facilities Regulated

Through this regulatory program, the TCEQ monitors the activity of these categories of scrap tire handlers:

- # **Generators.** Generators are tire dealers, junkyards, fleet operators, and others who generate scrap tires. Most scrap tire generators are not required to register; nonetheless, all scrap tire generators must follow TCEQ rules regarding storage and record keeping.
- # **Transporters.** Transporters must first register with the TCEQ if they wish to collect scrap tires from another business.
- # **Processing or Recycling Facilities.** Any facility where scrap tires are shredded, baled, recycled, or burned as fuel must be registered with the TCEQ.
- # **Storage Sites.** Any facility where the equivalent of more than 500 scrap tires—whether as whole tires, cut pieces, or tire shreds—must be registered with the TCEQ. These facilities must be designed for safety by a registered professional engineer and must have adequate financial assurance in place to ensure their proper closure.

¹ SFR-069/03 will be available no later than January 2, 2003. Among other topics, SFR-069/03 will describe the progress of awarding contracts using \$7.5 million appropriated by Senate Bill 1, Article VI, Rider 35, 77th Legislature, to begin the cleanup of some of these sites.

- # **Transportation Facilities.** Marine terminals, railyards, or trucking facilities where the equivalent of more than 500 scrap tires are stored for more than 30 days must be registered with the TCEQ.
- # **Land Reclamation Projects Using Tires (LRPUTs).** When tire pieces or shreds are mixed with soil to restore land to its approximate natural grade, the TCEQ must be notified of and approve the operation.
- # **Landfills.** As solid waste disposal facilities, landfills operate under the conditions of TCEQ permits. Split, quartered, or shredded tires may be disposed of in a landfill. Tires may also be stored or processed at a landfill if its permit allows these activities.

Monitoring These Activities

The TCEQ regularly monitors the activities of scrap tire handlers by requiring transporters and scrap tire facilities to maintain manifests showing the disposition of the scrap tires and by completing annual reports to the TCEQ on their activities.

Manifests

A manifest is simply a cradle-to-grave record of the disposition of each load of scrap tires removed from a generator's site. The generator and every facility handling the tires must keep a copy of the manifest for each load. Manifests are maintained in the following manner:

- # The generator completes and signs the first section of the manifest showing how many tires were picked up.
- # The transporter signs the manifest and leaves a copy with the generator.
- # When the tires are delivered to a permitted landfill or an authorized scrap tire facility, the final sections of the manifest are completed showing how many tires were disposed of at the facility.
- # The completed manifest must be returned to the generator within 60 days after the scrap tires were transported off site.
- # Generators must notify the appropriate TCEQ regional office within 90 days of when the tires were picked up if any transporter or authorized scrap tire facility:
 - ! failed to complete the manifest,
 - ! altered the generator portion of the manifest, or
 - ! did not return the manifest to the generator within 60 days of when the tires were picked up at the generator's facility.

These facilities must keep on file the original manifests, work orders, invoices, or other documentation for a period of three years and make these documents available to TCEQ investigators on request.

Annual Reports

Scrap tire transporters, processing facilities, and storage sites must report to the TCEQ each year the number of scrap tires they handle and the form of those tires (whole, cut pieces, or shreds). The TCEQ can initiate enforcement activity if an annual report is not filed or if information is improperly reported.

Enforcing Environmental Laws

Although no specific funding is provided to the TCEQ for the management of activities related to scrap tires, the agency pursues these and other activities to ensure that environmental laws are enforced:

- # routinely inspecting registered scrap tire storage sites, processing and recycling facilities, and LRPUs;
- # investigating registered transporters, generators, and illegal sites when complaints are received;
- # taking enforcement action as necessary if generators, transporters, or scrap tire facilities are not operating in compliance with TCEQ rules;
- # cooperating with local officials to enforce against illegal dumping and encourage recycling projects;
- # coordinating with local governments to take action as necessary to ensure that scrap tire handlers operate in compliance with scrap tire management regulations;
- # participating in numerous educational or outreach events;
- # developing guidance, including the translation of related materials into Spanish to meet a recognized need for clearer communications with this audience.

Financial support for these and related activities is drawn primarily from the Solid Waste Disposal Fee, which is collected as a part of tipping fees at registered landfills.

Auditing the Effectiveness of This Program

The TCEQ coordinated with the Office of the Comptroller of Public Accounts to obtain information regarding tire manifests and other information regarding tire transport or storage. While conducting scheduled Comptroller's audits of five tire vendors in calendar 2001, the auditor also obtained the following information:

- # The per-tire fee charged by the dealer (to the consumer) for each scrap tire collected and the total dollars collected under

this fee. This fee is typically called an “environmental fee” or “recycling fee.”

- # The per-tire fee paid by generators to transporters for removal of scrap tires from the tire dealer’s facility and the total dollars paid for transport.
- # The total number of tires reportedly removed from the tire dealer’s facility.
- # Verification that the generator completed and retained a copy of the initial manifest (when the scrap tires were transferred to the control of the transporter).
- # Verification that the generator maintained copies of the completed manifests indicating that the scrap tires were transported by a registered transporter to an authorized facility.

The audits indicated that there is no reason to question the general assumption that scrap tires remain accounted for from the point at which they are generated to the point of their reuse or legal disposal. Specifically, the audit information indicated that each of the vendors audited:

- # properly manifested their scrap tires for shipment;
- # used registered transporters to remove scrap tires from their sites;
- # received completed manifests indicating removed tires were transported by registered transporters to authorized end users or disposal facilities; and
- # charged a per-tire fee to consumers to cover the cost of transporting the tires to the authorized end user or disposal facility.

Information produced by the Comptroller’s audit is included as Attachment 1, beginning on page 7 of this report.

Interpretation of the Results of the Audit

The results of the audit support the Texas Commission on Environmental Quality (TCEQ) Tire Program’s contention that the vast majority of scrap tires are being properly manifested and transported to end users or landfills for disposition and that the number of scrap tires being illegally transported and disposed of is not increasing and may actually be decreasing. The TCEQ believes that this is due to the following factors:

- # the record-keeping requirements currently in place;
- # efforts by tire transporters, processors, end users, and disposal facilities to comply with regulations;
- # increasing end user demand for scrap tires;
- # and TCEQ and local government outreach and enforcement activities.

Although annual demand for scrap tires now exceeds the annual scrap tire generation rate, demand for scrap tires is not consistent throughout all areas of the state. Areas with few or no end use or disposal facilities tend to have a higher incidence of illegal scrap tire dumping. In some areas of the state, more resources are needed to ensure the proper handling of scrap tires.

The TCEQ's impression that newly scrapped tires generally are disposed of legally or put to beneficial (and legal) end uses is based on data developed independently of the Comptroller's audit as well as anecdotal evidence:

- # Although the TCEQ continues to receive reports of new illegal disposal sites, the frequency of the reports does not appear to be increasing and the sites identified are generally significantly smaller than those that had been identified in years past. Reports received are generally from areas where end uses have not been adequately developed.
- # Data reported to the TCEQ for calendar 2001 (the most recent reporting year) shows that the amount of scrap tires consumed by end users and landfills increased 15 percent from calendar 2000 (from 22.1 million scrap tires in 2000 to 25.5 million scrap tires in 2001).
- # For the first time in Tire Program history, the number of scrap tires generated has been exceeded by the total volume of scrap tire material reported as either consumed by end users or disposed in landfills. An estimated 24 million scrap tires were generated in calendar 2001—some 1.5 million tires fewer than the number reported as having been put to beneficial use or disposed in landfills in that year.
- # The increase in demand for scrap tires is due primarily to increased use by existing scrap tire end users and to use by new end users. End use categories with the largest increase in scrap tire use include tire-derived fuel and land reclamation.
- # The “excess” end user demand for scrap tires was satisfied primarily by the removal of scrap tires from stockpiles at registered or previously registered scrap tire storage sites. The volume of scrap tire material stockpiled at registered or previously registered scrap tire storage sites was reduced between calendar 2000 and calendar 2001.
- # The economic factors driving certain end uses are changing scrap tires from a waste to a resource. For example, demand for scrap tires for beneficial end uses in the Dallas–Fort Worth area

has now outpaced the locally available supply to the point that local users are importing scrap tires from Austin, San Antonio, Houston, and from out of state.

- # The increase in end user demand has resulted in fewer tires being directed to landfills for disposal. The number of scrap tires disposed of in landfills decreased from 3.4 million in calendar 2000 to 2.3 million in calendar 2001.
- # The Tire Program routinely receives calls from small operators who would like to register as scrap tire transporters. Often these calls are instigated by a processor's, landfill operator's, or end user's refusal to accept a load of tires that lacked proper manifests and were delivered by an unregistered transporter. Clearly, the scrap tire processors, landfill operators, and end users involved are following TCEQ rules regarding scrap tire acceptance.

Taken together, the results of this audit and related available information indicate that:

- # The illegal disposal of scrap tires does not appear to be increasing—and is perhaps decreasing—in Texas.
- # Major new stockpiles of scrap tires are not being created in Texas.
- # Existing scrap tire stockpiles are being reduced.
- # The majority of scrap tires generated in Texas are now being tracked from the point of generation to their ultimate beneficial end use or legal disposal.

Attachment 1: Findings of the Comptroller's Audit

The following pages are the Comptroller's audit reports as delivered to the TCEQ. The report delivered for one vendor also included copies of the manifests on file at that facility.

Contents of This Attachment

E-mail report on Banuelos New & Used Tires & Service (1 page)

E-mail report on Juan J. Vega (1 page)

Report in memo format on A-One Discount Tires Inc (1 page)

Report in memo format on Raymond Jones Klingemann (1 page)

Report for Forrest Tire Company,
including copies of manifests on file (29 pages)

Banuules [sic] New & Used Tires & Service
5317 S. Staples
Corpus Christi Texas 78411
TP # Generator # 3581

Pick Up Vendors:

Able Tire Company LLC
Charges \$1.00 per tire, picked up 27,941 tires between
May to Dec 2001

Island Industries PO Box 7358, Corpus Christi Texas 78467-7358
(361) 879-0309 Reg# 79545
Charged 65 cents per tire, picked up 5,042 tires between
Feb 1, 2001, and April 2001.

Transporters:

SouthWest Motor Transport # DO1-13629230

End Users

Green Tree Resorts
11800 Sheridan Rd
Houston Texas 77050
Reg# 130216

El-Centro
PO Box 307
Robstown Texas 78380
Reg# 2267

Banuelos fee charged for disposal:

1996 to July 1999 \$1.00 Per Tire sale
July 1999 to Present \$2.00 Per Tire sale

Totals for this fee are not available, they are part of Miscellaneous charges
which average 3,000 to 6,000 per month.

Taxpayer audited was Juan J. Vega, TP No. _____, master address 722 W. Buchanan Blvd./outlet location at 2919 Commercial Ave, San Antonio, Texas. His audit resulted in a no tax change audit.

1. The per tire fee charged by the dealer (to the consumer) for each scrap tire collected under this fee is \$2.00 per new tire and \$1.00 per used tire. Total dollars collected for Jan 2002-May 2002 were \$361, for 2001 were \$1,231, for 2000 were \$972.
2. The per tire fee paid by generators to transporters for removal of scrap tires from the tire dealers facility for transport is .90 per used passenger tire, 3.50 per truck tire. Total paid dollars which include sales tax are \$1481 for Jan-June 2002, \$2,197 in 2001, \$2,786 in 2000, and \$2,392 in 1999.
3. Total number of tires reportedly removed from the tire dealers facility. For Jan-June 2002 = 871 tires, for 2001 = 2122 tires, for 2000 = 2943 tires, for 1999 = 2951 tires.
4. The generator is completing manifest and retaining a copy of the initial manifest when scrap tires are transferred to the control of the transporter and the completed manifests are returned by the end user or disposal facility as required by 30TAC
5. I did verify that scrap tires are being transported. Since I did not have a list of authorized transporters the information is as follows for you:

Processor/Storage Site Information:

Registration No. 79506-44107, Safe Tire Disposal Corp of Texas, 11150 Applewhite Rd, San Antonio, Texas 78224.

Transporter Information and Certification shows

Safe Tire Disposal Corp. of Texas, Registration No. 25965.

INTEROFFICE MEMO

Carole Keeton Rylander

Texas Comptroller of Public Accounts

Date: July 22, 2002

To: Emma Fuentes, Supervisor, Austin Audit Office

From: Ping Hu, Auditor, Austin Audit Office

Subject: Scrap tire generator
Nuno Moniz Vasconcellos dba A-One Discount Tires Inc
Taxpayer Number :
5635 Hwy 290 West
Austin, TX 78735

The taxpayer does not maintain good records. The records for one of the four outlets are missing. There are also missing months of records for other locations. The taxpayer has a manual accounting system. There are no summary reports for me to get accurate information to answer the questions that TNRCC needed. The following information is based on the best information I could gather.

The per tire fee charged by the taxpayer to the consumers for each scrap tire collected is \$2-\$8. The total scrap tire fee for year 1999 was \$4,722 for a total of 1,859 tires.

The taxpayer pays a monthly fee to BFI for a 30 yard capacity dumpster. He cuts the tires collected (from his own business or other tire dealers) into 4 pieces and puts them in the dumpster.

INTEROFFICE MEMO

Carole Keeton Rylander

Texas Comptroller of Public Accounts

Date: July 29, 2002

To: Emma Fuentes, Supervisor, Austin Audit Office

From: Ping Hu, Auditor, Austin Audit Office

Subject: Scrap tire generator
Raymond Jones Klingemann
Taxpayer Number:
5635 Hwy 290 West
Austin, TX 78735

The taxpayer is a tire dealer. He charges \$2 waste tire fee for a new tire, \$1 for a used tire. The taxpayer has a tire cutter on site where he cuts collected tires that he dumps in the dumpsters. Total scrap tire fee charged in his shop for year 2000 and 2001 was \$4,366.57.

The taxpayer is also a transporter. He collects scrap tires from other tire dealers. For the most part, he charges about \$1.25 to \$1.50 per tire. There were times where he charged \$5 and \$15 per tire. I am assuming these are on huge tires. The total scrap tire fee charged from the tire dealers for year 1999, 2000 and 2001 was \$2,850 for total 25,842 tires, \$37,897 for total 25,684 tires and \$34,868 for total 23,070 tires, respectively. The taxpayer pays \$790.53 for a trailer load (a 53 foot box van) to the processor/recycler. A trailer load contains about 1500 to 1700 tires. The taxpayer transports scrap tires twice a month.

According to the taxpayer, the generator is completing the manifests and retaining a copy of the initial manifest when the scrap tires are transferred.

The manifests reviewed listed Waste Recovery Inc. and TechniServ Inc. as the transporters. Some of the manifest copies were not complete and have no processor/recycler information.

Processor used by the transporter (the taxpayer):
Waste Recovery Inc., Registration Number F79503
Address: 5302 Wade Rd, Baytown, TX 77521
Phone# (281) 424-4011

TechniServ Inc.
Address: 5904 Sierra Madre, Austin, TX 78759
Phone# (512) 258-5953

Note: The 29-page report for Forrest Tire Company, including copies of manifests on file, is not available online. If you wish to review copies of this report, please order a printed copy of this publication from TCEQ Publications in one of the following ways:

By Fax: 512/239-4488

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