

Barry Baker dba Farmersville Tire

RN108832890

Docket No. 2021-0807-MSW-E

Order Type:

Agreed Order

Media:

MSW

Small Business:

Yes

Location Where Violations Occurred:

1010 Old McKinney Road, Farmersville, Collin County (the "Site")

Type of Operation:

automotive repair and tire shop

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 16, 2024

Comments Received:

None

Penalty Information**Total Penalty Assessed:**

\$23,039

Deferred for Financial Inability to Pay:

\$19,439

Confidential information, which may include financial information has been provided to the Commission for its consideration.

Total Paid to General Revenue:

\$100

Total Due to General Revenue:

\$3,500

Payment Plan: 35 payments of \$100 each

Compliance History Classifications:

Person/CN – N/A

Site/RN – Unclassified

Major Source:

Yes

Statutory Limit Adjustment:

None

Applicable Penalty Policy:

January 28, 2021

Investigation Information**Complaint Date(s):**

September 14, 2020

Complaint Information:

The complainant alleges the responsible party is storing over 500 scrap tires on-site without applying vector control.

Dates of Investigation:

October 2, 2020 and April 7, 2021

Date of NOV:

December 4, 2020

Date of NOE:

June 2, 2021

Violation Information

1. Failed to obtain a scrap tire storage site registration for the Site, 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)].
2. Failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks [30 TEX. ADMIN. CODE § 328.56(d)(4)].
3. Failed to accurately and fully complete all required information on scrap tire manifests, to obtain completed manifests within 60 days after the scrap tires were transported off-site by the transporter, and to notify TCEQ of the transporter's failure to return completed manifests within three months after the off-site transportation of the scrap tires [30 TEX. ADMIN. CODE § 328.58(a), (d), and (e)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately cease storing any additional scrap tires at the Site until proper registration is obtained.
2. Within 30 days:
 - a. Develop and implement vector monitoring procedures and vector control measures for tires stored outside at the Site; and
 - b. Develop and implement processes to ensure compliance with requirements including that:
 - i. All required information is recorded on scrap tire manifests;
 - ii. Scrap tire manifests are obtained within 60 days after the scrap tires are transported off-site by the transporter; and
 - iii. TCEQ is notified of all manifests that are not properly completed and returned by the transporter.
3. Within 180 days:
 - a. Obtain a scrap tire storage site registration; or
 - b. In lieu of Technical Requirement 3.a., reduce the number of scrap tires being stored at the Site to less than 500 on the ground or 2,000 scrap tires in enclosed and lockable containers.
4. Within 195 days submit written certification to demonstrate compliance with Technical Requirements 1 through 3.

Litigation Information

Date Petitions Filed: February 1, 2022
Date of Service: March 7, 2022
Date Answer Filed: April 26, 2022
SOAH Referral Date: March 15, 2023
Hearing Dates:
 Preliminary hearing: June 8, 2023
 Evidentiary hearing: December 7, 2023 continued to June 20, 2024 (scheduled)
Settlement Date: June 3, 2024

Contact Information

TCEQ Attorneys: Benjamin Pence, Litigation Division, (512) 239-3400
 Sheldon Wayne, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Karolyn Kent, Enforcement Division, (512) 239-2536
TCEQ Regional Contact: Erin Gorman, Dallas/Fort Worth Regional Office, (817) 588-5800
Respondent Contact: Barry Baker, Barry Baker, 1411 County Road 557, Farmersville, Texas 75442
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | | | | |
|--------------|-----------------|------------|------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 1-Jun-2021 | PCW | 15-Nov-2021 | Screening | 21-Jun-2021 | EPA Due | |
|--------------|-----------------|------------|------------|-------------|------------------|-------------|----------------|--|

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|-----------------------------------|---------------------------|-------|
| Respondent | Barry Baker dba Farmersville Tire | | |
| Reg. Ent. Ref. No. | RN108832890 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Major |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 60924 | No. of Violations | 3 |
| Docket No. | 2021-0807-MSW-E | Order Type | 1660 |
| Media Program(s) | Waste Tires | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Courtney Atkins |
| | | EC's Team | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|----------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$21,750 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | | |
|---------------------------|------|-------------------|--------------------------------|---------|
| Compliance History | 5.0% | Adjustment | Subtotals 2, 3, & 7 | \$1,087 |
|---------------------------|------|-------------------|--------------------------------|---------|

| | | | | |
|--------------|---|--|--|--|
| Notes | Enhancement for one NOV containing same/similar violations. | | | |
|--------------|---|--|--|--|

| | | | | | |
|--------------------|----|------|--------------------|-------------------|-----|
| Culpability | No | 0.0% | Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------|--------------------|-------------------|-----|

| | | | | |
|--------------|--|--|--|--|
| Notes | The Respondent does not meet the culpability criteria. | | | |
|--------------|--|--|--|--|

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | | |
|-------------------------|------|---------------------|-------------------|-----|
| Economic Benefit | 0.0% | Enhancement* | Subtotal 6 | \$0 |
|-------------------------|------|---------------------|-------------------|-----|

| | | |
|------------------------------|----------|-----------------------------------|
| Total EB Amounts | \$972 | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$10,500 | |

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$22,837 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|------|-------------------|-------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.9% | Adjustment | \$202 |
|---|------|-------------------|-------|

Reduces or enhances the Final Subtotal by the indicated percentage.

| | | | |
|--------------|--|--|--|
| Notes | Enhancement to capture the avoided cost of compliance associated with Violation No. 2. | | |
|--------------|--|--|--|

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$23,039 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$23,039 |
|-----------------------------------|-------------------------------|----------|

| | | | | |
|-----------------|------|------------------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|------------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage.

| | | | |
|--------------|--|--|--|
| Notes | Deferral not offered for non-expedited settlement. | | |
|--------------|--|--|--|

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$23,039 |
|------------------------|----------|

| | | | | |
|--------------------------------|-----------------------------------|-------------------|-----------------|---|
| Screening Date | 21-Jun-2021 | Docket No. | 2021-0807-MSW-E | PCW |
| Respondent | Barry Baker dba Farmersville Tire | | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. | 60924 | | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. | RN108832890 | | | |
| Media | Waste Tires | | | |
| Enf. Coordinator | Courtney Atkins | | | |

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Number | 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>) | 1 | 5% |
| | 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% |
| 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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV containing same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

| | | | | |
|--------------------------------|--|--------------------------------------|-----------------|------------|
| Screening Date | 21-Jun-2021 | Docket No. | 2021-0807-MSW-E | PCW |
| Respondent | Barry Baker dba Farmersville Tire | Policy Revision 5 (January 28, 2021) | | |
| Case ID No. | 60924 | PCW Revision February 11, 2021 | | |
| Reg. Ent. Reference No. | RN108832890 | | | |
| Media | Waste Tires | | | |
| Enf. Coordinator | Courtney Atkins | | | |
| Violation Number | 1 | | | |
| 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 Site, 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 2,543 scrap tires, passenger tires, and tractor tires were stored on the ground at the Site without a scrap tire storage site registration. | | | |
| | | Base Penalty | \$25,000 | |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|--------|----------------|-------------|-------|---------------------|
| OR | | Release | Harm | | |
| | | Major | Moderate | Minor | |
| | Actual | | | | Percent 0.0% |
| Potential | | | | | |

>> Programmatic Matrix

| | | | | | |
|--|---------------|-------|----------|-------|----------------------|
| | Falsification | Major | Moderate | Minor | |
| | | x | | | Percent 20.0% |
| | | | | | |

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

| | |
|-------------------|----------|
| Adjustment | \$20,000 |
| | \$5,000 |

Violation Events

| | | | |
|----------------------------|---|----|--------------------------|
| Number of Violation Events | 3 | 75 | Number of violation days |
|----------------------------|---|----|--------------------------|

| | | | | | |
|--|--------------|---|--|--|--|
| | daily | | | | |
| | weekly | | | | |
| | monthly | x | | | Violation Base Penalty \$15,000 |
| | quarterly | | | | |
| | semiannual | | | | |
| | annual | | | | |
| | single event | | | | |
| | | | | | |

Three monthly events are recommended from the April 7, 2021 investigation date to the June 21, 2021 screening date.

Good Faith Efforts to Comply

| | | | | | |
|---------------|----------------|-----------------------------------|--|--|----------------------|
| | 0.0% | | | | |
| | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer | | | |
| Extraordinary | | | | | Reduction \$0 |
| Ordinary | | | | | |
| N/A | x | | | | |

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

| | |
|---------------------------|----------|
| Violation Subtotal | \$15,000 |
|---------------------------|----------|

Economic Benefit (EB) for this violation

| | |
|---|---|
| | Statutory Limit Test |
| Estimated EB Amount | \$742 |
| | Violation Final Penalty Total \$15,889 |
| This violation Final Assessed Penalty (adjusted for limits) \$15,889 | |

Economic Benefit Worksheet

Respondent Barry Baker dba Farmersville Tire
Case ID No. 60924
Reg. Ent. Reference No. RN108832890
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 | Costs Saved | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

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 | 2-Oct-2020 | 28-Mar-2022 | 1.48 | \$742 | n/a | \$742 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated delayed cost to obtain a scrap tire storage site registration for the Site. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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 | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$742

| | | |
|---|-----------------------------------|--|
| Screening Date 21-Jun-2021 Respondent Barry Baker dba Farmersville Tire Case ID No. 60924 Reg. Ent. Reference No. RN108832890 Media Waste Tires Enf. Coordinator Courtney Atkins | Docket No. 2021-0807-MSW-E | PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i> |
|---|-----------------------------------|--|

| | | | | |
|------------------------------|---|------------------------------------|----------|--|
| Violation Number | 2 | Rule Cite(s) | | |
| | | 30 Tex. Admin. Code § 328.56(d)(4) | | |
| Violation Description | Failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks. | | | |
| Base Penalty | | | \$25,000 | |

>> 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"/> | x | Percent <input style="width: 50px;" type="text" value="7.0%"/> |

>> Programmatic Matrix

| | | | | | |
|---------------------|---|----------------------|----------------------|----------------------|---|
| | Falsification | Major | Moderate | Minor | |
| | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input style="width: 50px;" type="text" value="0.0%"/> |
| Matrix Notes | Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or the environmental receptors as a result of the violation. | | | | |
| Adjustment | | | | | \$23,250 |

| | |
|--|---------|
| | \$1,750 |
|--|---------|

Violation Events

| | | | |
|----------------------------------|--------------|----------------------|--|
| Number of Violation Events | 1 | 75 | Number of violation days |
| | daily | <input type="text"/> | |
| | weekly | <input type="text"/> | |
| | monthly | <input type="text"/> | |
| | quarterly | <input type="text"/> | |
| | semiannual | <input type="text"/> | |
| | annual | <input type="text"/> | |
| | single event | x | Violation Base Penalty <input style="width: 100px;" type="text" value="\$1,750"/> |
| One single event is recommended. | | | |

Good Faith Efforts to Comply

| | | |
|---------------------------|--|----------------------------------|
| | 0.0% | |
| | Before NOE/NOV | NOE/NOV to EDRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | x | <input type="text"/> |
| Notes | The Respondent does not meet the good faith criteria for this violation. | |
| Violation Subtotal | | \$1,750 |

Economic Benefit (EB) for this violation

| | |
|--|---------|
| | |
| Estimated EB Amount | \$223 |
| Statutory Limit Test | |
| Violation Final Penalty Total | \$1,854 |
| This violation Final Assessed Penalty (adjusted for limits) | |
| \$1,854 | |

Economic Benefit Worksheet

Respondent Barry Baker dba Farmersville Tire
Case ID No. 60924
Reg. Ent. Reference No. RN108832890
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 | Costs Saved | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

Delayed Costs

| | | | | | | | |
|--------------------------|-------|------------|-------------|------|-----|------|------|
| Equipment | \$200 | 2-Oct-2020 | 28-Mar-2022 | 1.48 | \$1 | \$20 | \$21 |
| 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

Estimated delayed cost to utilize appropriate vector control measures at least once every two weeks. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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 | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$200 | 7-Apr-2021 | 21-Jun-2021 | 0.21 | \$2 | \$200 | \$202 |

Notes for AVOIDED costs

Estimated avoided cost to utilize appropriate vector control measures at least once every two weeks. The Date Required is the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$400

TOTAL

\$223

| | | |
|---|-----------------------------------|--|
| Screening Date 21-Jun-2021 Respondent Barry Baker dba Farmersville Tire Case ID No. 60924 Reg. Ent. Reference No. RN108832890 Media Waste Tires Enf. Coordinator Courtney Atkins | Docket No. 2021-0807-MSW-E | PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i> |
|---|-----------------------------------|--|

| | | |
|------------------------------|---|--|
| Violation Number | 3 | |
| Rule Cite(s) | 30 Tex. Admin. Code § 328.58(a), (d), and (e) | |
| Violation Description | Failed to accurately and fully complete all required information on scrap tire manifests, to obtain completed manifests within 60 days after the scrap tires were transported off-site by the transporter, and to notify the TCEQ of the transporter's failure to return completed manifests within three months after the off-site transportation of the scrap tires. Specifically, the Respondent did not provide completed and legible copies of the manifests and the generator and transporter information, date, and necessary signatures were not included on all manifests. | |

| | |
|---------------------|----------|
| Base Penalty | \$25,000 |
|---------------------|----------|

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|----------------|----------------------|----------------------|----------------------|--|
| OR | | Harm | | | |
| | Release | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="0.0%"/> |

>> Programmatic Matrix

| | | | | | |
|--|----------------------|-------|----------------------|----------------------|---|
| | Falsification | Major | Moderate | Minor | |
| | <input type="text"/> | x | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="20.0%"/> |

| | |
|--------------|---|
| Matrix Notes | Greater than 70% of the rule requirement was not met. |
|--------------|---|

| | |
|-------------------|----------|
| Adjustment | \$20,000 |
|-------------------|----------|

| | |
|--|---------|
| | \$5,000 |
|--|---------|

Violation Events

| | | | |
|----------------------------|---|----|--------------------------|
| Number of Violation Events | 1 | 75 | Number of violation days |
|----------------------------|---|----|--------------------------|

| | | | |
|--|--------------|----------------------|--|
| | daily | <input type="text"/> | Violation Base Penalty <input type="text" value="\$5,000"/> |
| | weekly | <input type="text"/> | |
| | monthly | <input type="text"/> | |
| | quarterly | <input type="text"/> | |
| | semiannual | <input type="text"/> | |
| | annual | <input type="text"/> | |
| | single event | x | |

| |
|----------------------------------|
| One single event is recommended. |
|----------------------------------|

Good Faith Efforts to Comply

| | | |
|---------------|--|---|
| | 0.0% | Reduction <input type="text" value="\$0"/> |
| | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | x | <input type="text"/> |
| Notes | The Respondent does not meet the good faith criteria for this violation. | |

| | |
|---------------------------|---------|
| Violation Subtotal | \$5,000 |
|---------------------------|---------|

Economic Benefit (EB) for this violation

| | |
|---|-----------------------------|
| Estimated EB Amount <input type="text" value="\$7"/> | Statutory Limit Test |
|---|-----------------------------|

| | |
|--------------------------------------|---------|
| Violation Final Penalty Total | \$5,296 |
|--------------------------------------|---------|

| | |
|--|---------|
| This violation Final Assessed Penalty (adjusted for limits) | \$5,296 |
|--|---------|

Economic Benefit Worksheet

Respondent Barry Baker dba Farmersville Tire
Case ID No. 60924
Reg. Ent. Reference No. RN108832890
Media Waste Tires
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Costs Saved | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

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 | 2-Oct-2020 | 28-Mar-2022 | 1.48 | \$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 delayed cost to develop and implement processes to ensure all required information is recorded on the scrap tire manifests, scrap tire manifests are obtained within 60 days after the scrap tires are transported off-site by the transporter, and the TCEQ is notified of all manifests that are not properly completed and returned by the transporter. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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 | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$7

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

Compliance History Report for CN605825173, RN108832890, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605825173, Barry D Baker

Classification: NOT APPLICABLE

Rating: N/A

Regulated Entity: RN108832890, FARMERSVILLE TIRE

Classification: UNCLASSIFIED

Rating: -----

Complexity Points: 2

Repeat Violator: NO

CH Group: 14 - Other

Location: 1010 Old McKinney Road, Farmersville, Collin County, Texas 75442

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

TIRES REGISTRATION 14338

TIRES REGISTRATION 140115

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
R04108832890

Compliance History Period: September 01, 2015 to August 31, 2020

Rating Year: 2020

Rating Date: 09/01/2020

Date Compliance History Report Prepared: August 30, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 30, 2016 to August 30, 2021

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

Name: Courtney Atkins

Phone: (512) 239-1118

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? | NO |

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: | 12/04/2020 | (1679201) | |
| | Self Report? | NO | | Classification: Moderate |
| | Citation: | 30 TAC Chapter 328, SubChapter F 328.56(d)(2) | | |
| | | 30 TAC Chapter 330, SubChapter A 330.15(a) | | |
| | Description: | Failure to prevent the unauthorized storage of municipal solid waste consisting of 500 or more scrap tires. | | |
| | Self Report? | NO | | Classification: Moderate |
| | Citation: | 30 TAC Chapter 328, SubChapter F 328.56(d)(4) | | |

Description: Failure to utilize and apply appropriate vector control measures at least once every two weeks.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 328, SubChapter F 328.58(a)
30 TAC Chapter 328, SubChapter F 328.58(d)
30 TAC Chapter 328, SubChapter F 328.58(e)

Description: Failure to properly fill out the generator section of the manifests and to obtain the completed manifests from the destination facility within 60 days of removing the tires off-site.

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
BARRY BAKER DBA FARMERSVILLE TIRE;
RN108832890

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2021-0807-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 Barry Baker dba Farmersville Tire ("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 stipulate that:

1. Respondent operates an automotive repair and tire shop located at 1010 Old McKinney Road in Farmersville, Collin County, Texas (the "Site"). The Site contains and/or involves 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, 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 \$23,039 is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid \$100 of the penalty. The Revenue Operations Section of TCEQ's Financial Administration Division reviewed financial documentation submitted by Respondent and determined that Respondent is unable to pay all or part of the penalty. Therefore, \$19,439 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 \$100 of the \$3,600 undeferred penalty. The remaining amount of \$3,500 of the undeferred penalty shall be paid in 35 monthly payments of \$100 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 her 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 and conditions 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.

II. ALLEGATIONS

1. During investigations conducted on October 2, 2020, and April 7, 2021, an investigator documented that Respondent:
 - a. Failed to obtain a scrap tire storage site registration for the Site, 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 2,543 scrap tires, passenger tires, and tractor tires were stored on the ground at the Site without a scrap tire storage site registration;
 - b. Failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks, in violation of 30 TEX. ADMIN. CODE § 328.56(d)(4); and
 - c. Failed to accurately and fully complete all required information on scrap tire manifests, to obtain completed manifests within 60 days after the scrap tires were transported off-site by the transporter, and to notify TCEQ of the transporter's failure to return completed manifests within three months after the off-site transportation of the scrap tires, in violation of 30 TEX. ADMIN. CODE § 328.58(a), (d), and (e). Specifically, Respondent did not provide completed and legible copies of the manifests and the generator and transporter information, date, and necessary signatures were not included on all manifests.

III. DENIALS

Respondent generally denies the Allegations 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: Barry Baker dba Farmersville Tire, Docket No. 2021-0807-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. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, cease storing any additional scrap tires at the Site until proper registration is obtained.
 - b. Within 30 days after the effective date of this Order:
 - i. Develop and implement vector monitoring procedures and vector control measures for tires stored outside at the Site, in accordance with 30 TEX. ADMIN. CODE § 328.56; and
 - ii. Develop and implement processes to ensure compliance with requirements in 30 TEX. ADMIN. CODE § 328.58, including that:
 - A. All required information is recorded on scrap tire manifests;
 - B. Scrap tire manifests are obtained within 60 days after the scrap tires are transported off-site by the transporter; and
 - C. TCEQ is notified of all manifests that are not properly completed and returned by the transporter.
 - c. Within 180 days after the effective date of this Order:
 - i. Obtain a scrap tire storage site registration, in accordance with 30 TEX. ADMIN. CODE § 328.60; or
 - ii. In lieu of Ordering Provision No. 2.c.i., reduce the number of scrap tires being stored at the Site to less than 500 on the ground or 2,000 scrap tires in enclosed and lockable containers, in accordance with 30 TEX. ADMIN. CODE § 328.60.
 - d. Within 195 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. 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.”

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by 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 Site operations referenced in this Order.
5. 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 Enforcement Division at the address listed above.
6. 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.
7. 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.
8. 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.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

9/9/24

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 - Barry Baker
1411 County Road 557
Farmersville, Texas 75442

6-3-24

Date

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