



## **Court Ruling on Burning Tires Flattens Industry: Cindy Skrzycki**

By Cindy Skrzycki

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Sept. 18 (Bloomberg) -- A new industry that recycles old tires into fuel -- saving companies millions of dollars and reducing a billion-tire national stockpile -- is in limbo after a U.S. court tossed out some federal clean-air rules.

During the past decade, owners of industrial boilers considered themselves do-gooders because they had the Environmental Protection Agency's blessing to burn alternative fuels, including old tires. Yet environmental groups said the practice dodged clean-air standards by classifying incinerators as boilers, which have less-stringent emission rules.

On June 8, a panel of the U.S. Court of Appeals for the District of Columbia agreed with the environmentalists, heading off an EPA rule that was to go into effect this month and forcing the agency to come up with a new definition of "solid waste."

"Tires will become a pariah if they are classified as a solid waste," said Michael Blumenthal, senior technical director for the Rubber Manufacturers Association in Washington, which represents major tire manufacturers. He predicted the impact of the ruling "would be monumental."

Michael Sorcher, president of Overland Park, Kansas-based M.A. Associates Inc., the nation's largest marketer of tire-derived fuel, said the new industry has been thriving. It also saves more than \$100 million a year for customers, such as International Paper Co. of Memphis, and Holcim Ltd., of Jona, Switzerland, the world's second-largest cement maker, he said.

"This regulatory change doesn't just affect end users, but the whole industry structure," Sorcher said, referring to makers of crumb rubber and other forms of recycled tire rubber. "It would be devastating for the industry in general."

'Recovered Energy'

The court said facilities burning tires, wood, bark and other industrial discards had been improperly classified by the EPA. The agency allowed facilities that "recovered energy" to be designated as boilers, instead of following language in the Clean Air Act that said burning any solid waste made the unit

an incinerator.

“Had Congress intended to exempt all units that combust waste for the purpose of recovering thermal energy, it could likewise have expressly provided for their exemption in the statute,” the ruling said.

Robert Wayland, leader of EPA's Energy Strategies Group in its Office of Air Quality Planning & Standards, said the agency wanted to encourage the use of alternative energy sources, including tire-derived fuel. “We thought we had the purview to include these,” Wayland said.

Cement kilns are the biggest users of tire-derived fuel, burning as many as 60 million tires a year, said Michel Benoit, executive director for the Cement Kiln Recycling Coalition, in Washington.

‘Unknown Territory’

The last thing his members want, Benoit said, “is another rule and charting into some unknown territory” that would make replacing coal with tires uneconomical.

“Nobody has been ruled in or out at this point,” said the EPA's Wayland, adding it will take at least two years to propose and complete a new rule that determines what is a fuel and what is waste.

Jockeying over the new proposal has already begun. The Rubber Manufacturers Association told the EPA on June 25 that it should modify any new rules to exempt tires from its definition of solid waste.

The growth of markets for tire-derived fuel was nurtured by the EPA during the last 20 years to solve another environmental problem -- the billion-tire stockpile was a fire and disease risk.

Cracking Down

Environmentalists were unsympathetic to the plight of tire recyclers and their customers.

“If they burn tires, they have to meet emission standards,” said James Pew, staff attorney with Earthjustice in Washington, an environmental law firm that argued the case with the Natural Resources Defense Council, a New York-based nonprofit group. “It's not our goal to crack down on them, just to get a better environmental result.”

The biggest users of tire-derived fuel said they will have to calculate the energy savings against the higher costs of being reclassified as an incinerator.

“If it's 10 percent of the fuel they use and it's millions of dollars for more controls, mills will say it's just easier to switch fuels,” said Timothy Hunt, senior director for air-quality programs at the Washington-based American Forest and Paper Association, which represents pulp, paper and wood mills that use biomass and tires as fuel. “Every paper mill will face that decision.”

He said that while states may step in with interim controls, facilities won't

have a rule to comply with until the EPA comes up with a new standard.

#### Different Recycling

Whatever the outcome, at least one company thinks the decision will give impetus to a different form of recycling old tires: freezing and then pulverizing them into powder that can be use in paint, tile, decking, automotive parts -- and new tires.

Lehigh Technologies LLC, a privately owned company in Naples, Florida, uses about 7 million tires annually. One official there says the growth potential for its process is immense and doesn't have environmental consequences.

``We're interested in converting the rubber into more beneficial uses," said Patrick George, Lehigh's chief financial officer. ``We're just trying to figure out how this affects our business."

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