

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

\_\_\_\_\_) )  
IN THE MATTER OF: ) )  
 ) )  
**Charles Patton d/b/a Patton Tire Repair** ) )  
**Patton Tire Repair Scrap Tire Site** ) )  
**2214 County Road 55** ) )  
**Moundville, Hale County, Alabama** ) )  
\_\_\_\_\_)

Order No. 23-XXX-ST

**FINDINGS**

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended; the Alabama Scrap Tire Environmental Quality Act, Ala. Code §§ 22-40A-1 to 22-40A-24, as amended; and the Alabama Department of Environmental Management’s (hereinafter “ADEM” or “the Department”) Administrative Code of Regulations (hereinafter “ADEM Admin. Code r.”) promulgated pursuant thereto, the Department makes the following FINDINGS:

1. Charles Patton d/b/a Patton Tire Repair (hereinafter “Mr. Patton”), who is the co-owner of the real property identified as Parcel ID Number 03-07-26-0-000-037.000 located at 2214 County Road 55 in Moundville, Hale County, Alabama (hereinafter “the Site”), is responsible for the creation and operation of an illegal scrap tire site (hereinafter “STS”) on the Site, which is the subject of this Administrative Order.
2. Pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, the Department is a duly constituted department of the State of Alabama.
3. Pursuant to Ala. Code § 22-40A-11, as amended, the Department is the state agency authorized to administer and enforce the provisions of the Alabama Scrap Tire Environmental Quality Act.
4. Pursuant to Ala. Code § 22-40A-5(a), as amended, and ADEM Admin. Code r. 335-4-2-.01(2), the responsible party for a scrap tire site shall be responsible for the remediation of the site. If the responsible party is not determined, the landowner shall be responsible for remediation of the site.

5. On February 8, 2018, in response to a complaint, Department personnel inspected the Site and found that scrap tires were being accumulated on the Site. Hale County property records listed Mr. Patton as the co-owner of the Site where the STS is located. It was discovered during the inspection that Mr. Patton had operated a tire repair shop on the Site since the 1960s. The inspection and a review of Mr. Patton's compliance with certain requirements of Division 4 of the ADEM Admin. Code revealed the following:

Pursuant to ADEM Admin. Code r. 335-4-4-.01(1), no person may accumulate more than 100 scrap tires, except a permitted processor, a person who registers as required in ADEM Admin. Code r. 335-4-3-.01(2), or a permitted SWDF [Solid Waste Disposal Facility]. No person may expose scrap tires to the elements for more than thirty (30) days.

During the inspection, Department personnel found an accumulation of approximately 1,200 scrap tires on the Site. The scrap tires appeared to have been exposed to the elements for more than 30 days. Additionally, a review of departmental records revealed that no one connected to the Site had ever registered with the Department as a Class One Receiver or had been issued a scrap tire processor or SWDF permit by the Department. As a result, the accumulation of scrap tires on the Site without the proper authorization from the Department constitutes the creation of an STS for which Mr. Patton is responsible.

6. On February 15, 2018, the Department issued to Mr. Patton a Notice of Violation (hereinafter "NOV") via the United States Postal Service certified mail, requiring the full abatement and closure of the STS and the submission of documentation proving that all remediation activities had been successfully completed and that all scrap tires and regulated solid waste were properly disposed of or recycled. The NOV was returned to the Department as unclaimed on February 23, 2018.

7. On June 12, 2018, Department personnel hand-delivered the NOV to Mr. Patton.

8. The Department did not receive a response to the NOV indicating the Site has been remediated.

9. On March 28, 2019, Department personnel conducted a follow-up inspection of the Site to assess the status of the STS. At the time of inspection, the previously noted scrap tires were still present.

10. On June 26, 2019, Department personnel conducted a second follow-up inspection to determine the Site's condition. The STS was present and appeared to be unabated.

11. On April 14<sup>th</sup> and 15<sup>th</sup> of 2022, Department personnel conducted a third follow-up inspection to determine the Site's status and discovered the STS previously observed remained in place.

12. On August 8, 2022, Department personnel conducted a fourth follow-up inspection at the Site and discovered the Site remained unchanged.

13. Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000 for each violation, provided, however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000. Each day such a violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. **SERIOUSNESS OF THE VIOLATION:** The creation, contribution to, or operation of an STS is a public nuisance, a threat to public health, and a threat to the environment. The Department is not aware of any irreparable harm to the environment,

or any immediate threat to human health or the safety of the public as a result of the STS's presence on the Site, but it may pose a threat to human health due to the Site being a potential habitat for disease vectors.

B. THE STANDARD OF CARE: Mr. Patton failed to abide by the applicable scrap tire requirements of Division 335-4 of the ADEM Admin. Code.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to establish if Mr. Patton has realized a significant economic benefit as a result of the violations cited herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is unaware of efforts by Mr. Patton to mitigate any potential adverse effects upon the environment, human health, or public safety which may have been caused as a result of the STS.

E. HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, Mr. Patton does not have a documented history of violations of the applicable requirements of ADEM Admin. Code Div. 335-4.

F. THE ABILITY TO PAY: Mr. Patton has not provided the Department with any financial data that demonstrates his inability to pay the civil penalty assessed herein.

G. OTHER FACTORS: Pursuant to Ala. Code §22-40A-19(e), as amended, a fine of five dollars (\$5) per tire shall be assessed against any party who accumulates, transfers, transports, processes, or engages in unauthorized disposal of scrap tires. This fee shall be in addition to all other fines or penalties assessed. In consideration of the aforementioned statutory requirement, the Department has enhanced the civil penalty accordingly.

14. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code §22-22A-5(18)c, as amended, as well as other factors, and has concluded that a civil penalty is appropriate for the violation cited herein. The civil penalty is summarized in Attachment A, which has been made part of the Department's FINDINGS.

## ORDER

Based on the foregoing FINDINGS and pursuant to Ala. Code, §§ 22-22A-5(1), 22-22A-5(10), 22-22A-5(18), 22-27-11, 22-40A-4(a), 22-40A-4(b), and 22-40A-5(a), as amended, it is hereby ORDERED:

A. That, not later than forty-five days of issuance of this Order, Mr. Patton shall pay to the Department a civil penalty in the amount of \$12,000 for the violation cited herein. The penalty shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check or any other method of payment acceptable to the Department and shall be remitted to:

Office of General Counsel

Alabama Department of Environmental Management

P.O. Box 301463

Montgomery, Alabama 36130-1463

All checks shall include Mr. Patton's name and address and the ADEM Administrative Order number of this action.

B. That, immediately upon the issuance of this Order and continuing each and every day thereafter, Mr. Patton shall cease and desist from creating, operating, or contributing to any STSs.

C. That, within thirty days of issuance of this Order, Mr. Patton shall submit a remediation plan to the Department in accordance with the applicable requirements of ADEM Admin. Code rs. 335-4-2-.01(5) and 335-4-2-.01(6). This plan shall include a schedule for remediation and site closure completion. Unless otherwise directed or informed by the Department, Mr. Patton shall implement the remediation plan as presented; remove and properly dispose of all scrap tires, including other solid waste materials, into a permitted landfill unit, permitted transfer station, or permitted recycling

facility; and comply with all applicable requirements of Division 335-4 of the ADEM Admin. Code.

D. That, within fifteen days of completion of remediation activities, Mr. Patton is required to report the following information to the Department in order to provide proof of closure actions:

1. Time period in which the remediation activities took place.
2. Total volume of tires and solid waste removed from the Site.
3. Documentation that all regulated waste, to include both surface and subsurface waste, was removed from the Site.
4. A copy of waste receipts documenting that all regulated waste was taken to a permitted landfill, permitted transfer station, or permitted recycling facility.
5. Photographs of the scrap tire and solid waste disposal area(s) on the Site, before and after remediation.
6. Documentation that the Site was properly closed to prevent erosion, if applicable.
7. Documentation that the site has been secured to prevent any future illegal dumping, if applicable.

E. That, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and, therefore, unenforceable, the remaining provisions hereof shall remain in full force and effect.

F. That, the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against Mr. Patton for the violation cited herein.

G. That, failure to comply with the provisions of the Order shall constitute cause for commencement of legal action by the Department against Mr. Patton for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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Lance R. LeFleur  
Director

DRAFT

**Attachment A**

Charles Patton d/b/a Patton Tire Repair  
 Patton Tire Repair Scrap Tire Site  
 Moundville, Hale County, Alabama

| Violation*                             | Number of Violations* | Seriousness of Violation* | Standard of Care* | History of Previous Violations* |                        |
|--|-----------------------|---------------------------|-------------------|---------------------------------|------------------------|
| Creation of an Illegal Scrap Tire Site | 1                     | \$5,000                   | \$1,000           | \$0                             | Total of Three Factors |
| TOTAL PER FACTOR                       |                       | \$5,000                   | \$1,000           | \$0                             | \$6,000                |

|   |                        |
|---|------------------------|
| Adjustments to Amount of Initial Penalty* |                        |
| Mitigating Factors (-)                    | \$0                    |
| Ability to Pay (-)                        | \$0                    |
| Other Factors (+/-)                       | + \$6,000 <sup>1</sup> |
|   | + \$6,000              |

|                           |                 |
|---------------------------|-----------------|
| Economic Benefit (+)*     | \$0             |
| Amount of Initial Penalty | \$6,000         |
| Total Adjustments (+/-)   | + \$6,000       |
| <b>FINAL PENALTY</b>      | <b>\$12,000</b> |

Footnotes

1. An additive fine of \$5.00 per tire as mandated under Ala. Code §22-40A-19(e), as amended  
 \* See the "Findings" portion of the Order for a detailed description of each violation and the penalty factors.