

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Richard S. and Edward H. Burns
244 County Road 379 STS
Boaz, DeKalb County, Alabama**

Order No. XX-XXX-ST/AP

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 (ASTEQA), Ala. Code §§ 22-40A-1 to 22-40A-24, as amended, the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23, as amended, the Alabama Department of Environmental Management ("Department" or "ADEM") Administrative Code of Regulations ("ADEM Admin. Code r.") promulgated pursuant thereto, and the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, as amended, the Department makes the following FINDINGS:

AIR DIVISION FINDINGS

1. Pursuant to Ala. Code § 22-22A-4(n), as amended, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act (AAPCA), Ala. Code §§ 22-28-1 to 22-28-23, as amended.

2. ADEM Admin. Code r. 335-3-3-.01(1) prohibits open burning except for specific listed activities.

3. ADEM Admin Code r. 335-3-3-.01(2)(b) limits open burning as authorized by 335-3-3-.01(2)(a) to certain conditions, including:

a. Only vegetation and untreated wood may be burned. It is unauthorized to open burn heavy oils, asphalt products, plastics, vinyl

materials, insulation, paper, cardboard, natural or synthetic rubber, salvage or scrap materials, chemicals, garbage, treated or painted wood, or any trash.

4. On October 17, 2025, Department personnel were notified by Dekalb County EMA of a large tire fire occurring at the Site. Department personnel inspected the Site and observed tires burning and other unburned tires outside of the burn area.

5. The open burning of materials at the Site on October 17, 2025, was not authorized by ADEM Admin. Code r. 335-3-3-.01(1) or 335-3-3-.01(2)(a) constituting a violation of ADEM Admin. Code r. 335-3-3-.01(1).

LAND DIVISION'S FINDINGS

6. Richard S. and Edward H. Burns ("the Burns") own the property located at 244 County Road 379, which is further identified as Parcel ID Number 31-05-22-0-000-014.001, in Boaz, DeKalb County, Alabama ("the Site").

7. 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.

8. Pursuant to Ala. Code § 22-40A-11, as amended, the Department is the state agency authorized to administer and enforce the provisions of the ASTEQA, Ala. Code §§ 22-40A-1 to 22-40A-24, as amended.

9. Pursuant to Ala. Code § 22-40A-4(a)-(b), as amended, and ADEM Admin. Code r. 335-4-4-.01(1), no person may accumulate more than 100 scrap tires, except as a permitted processor, registered receiver, permitted landfill, or transporter who has requested and been granted a storage limit by the Department. No person may expose scrap tires to the elements for more than thirty days.

10. Pursuant to ADEM Admin. Code r. 335-4-1-.02(www), a scrap tire site ("STS") is defined as a site or location where scrap tires or tire pieces are illegally stored or accumulated and is not in compliance with the ASTEQA or ADEM Admin. Code div. 335-4.

11. 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 the remediation of the site, unless the landowner qualifies as an innocent landowner as defined in 335-4-1-.02.

12. Pursuant to Ala. Code § 22-40A-7(a), as amended, and ADEM Admin. Code r. 335-4-3-.03, no person, except properly registered receivers, may engage in the transportation of scrap tires, whether or not for profit, without holding a valid transporter permit issued by the Department, unless otherwise exempted by the Alabama Scrap Tire Environmental Quality Act (ASTEQA) or unless allowed by department regulation, if he or she transports more than eight scrap tires at any one time.

13. On October 18, 2025, in response to a complaint, personnel from the Department conducted an investigation that involved a site inspection and a review of pertinent records. During the course of this investigation, the following observations were noted:

A. Approximately 30,000 scrap tires had been accumulated in piles, uncovered, and exposed to the elements at the Site. Additionally, a portion of these tires had been incinerated during a significant fire that occurred at the Site.

B. A review of departmental records indicated that neither the landowner nor any other individuals legally associated with the Site had registered with the Department as mandated by ADEM Admin. Code r. 335-4-3-.01(2). Furthermore, they had not obtained a scrap tire processor or SWDF permit from the Department prior to accumulating or storing the scrap tires on the Site, thereby violating ADEM Admin Code r. 335-4-4-.01(1). As a result, the accumulation of the aforementioned scrap tires at the Site constitutes the creation of STS, for which the Burns are responsible.

C. During the inspection, it was noted that approximately 30,000 tires were stacked in piles on the Site, left uncovered and exposed to the elements. There was no clear evidence suggesting that a legitimate scrap tire processing facility or any other tire-related business was operating on the Site to justify the presence of the scrap tires. In the absence of any contrary evidence, the Department has concluded that the Burns transported the aforementioned scrap tires to the Site without having a transporter issued by the department.

D. According to the property tax records of Dekalb County, the Burns were the owners of the Site during the time of the inspection.

14. On November 7, 2025, the Department issued the Burns a Notice of Violation (NOV) by the United States Postal Service ("USPS") Certified Mail, requiring full abatement and closure of the STS. According to the USPS online tracking system, the NOV was delivered on November 17, 2025.

15. To date, the Department has not yet received a response to the NOV from the Burns.

16. 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 inherently 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. The Burns conducted open burning of regulated materials in violation of the Department's open burning regulations. The Department considers these violations to be serious.

B. THE STANDARD OF CARE: There appeared to be no care taken by the Burns to comply with the applicable requirements of the ADEM Admin. Code r. 335-3-3-.01, the AAPCA, or the ASTEQA. The Burns did not comply with the regulations for the proper management of scrap tire accumulations and failed to follow the Department's directives regarding the proper abatement and closure of the STS.

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

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is unaware of efforts by the Burns to mitigate any potential adverse effects on the environment, human health, or public safety that may have been caused due to the presence of the STS or the opening burning of scrap tires.

E. HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, the Burns do not appear to have a documented history of violations of the applicable requirements of ADEM Admin. Code div. 335-4 or ADEM Admin. Code div. 335-3.

F. THE ABILITY TO PAY: The Department has no evidence indicating the Burns' 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 that may be assessed. In compliance with this statutory requirement, the Department has adjusted the civil penalty, as detailed in Attachment A.

16. 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 (see Attachment A, which is made a 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), 22-27-4(b), 22-27-7, 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 receipt of this Order, the Burns shall pay the Department a civil penalty in the amount of \$173,270 for the violations 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 payments shall reference the Burns' names and addresses and the ADEM Administrative Order number of this action.

B. That, immediately upon receipt of this Order and continuing each and every day thereafter, the Burns shall cease and desist from creating, operating, or contributing to any STSs, as well as ensure immediate and future compliance with ADEM Admin. Code r. 335-3-3-.01 and the AAPCA.

C. That, within thirty days of receipt of this Order, in accordance with ADEM Admin. Code rs. 335-4-2-.01(4)-(5) the Burns shall submit a Remediation Plan prepared by an engineer which must be used to direct remedial actions at the Site. The Remediation Plan must be approved by the Department prior to initiating remedial action.

D. That, should the Burns choose to personally remove scrap tires or scrap tire materials from the Site and transport them to a permitted scrap tire processor or SWDF, the Burns must obtain a limited-use transporter permit, as defined in ADEM Admin. Code r. 335-4-1-.02, from the Department.

E. That, within fifteen days of completion of remediation activities, the Burns shall provide the following information to the Department as proof that all remediation activities have been completed:

1. Period in which the remediation activities took place.
2. Total number or volume of scrap tires, scrap tire materials, and all other regulated solid waste removed from the Site.
3. Documentation confirming that all scrap tires, scrap tire materials, and all other regulated solid waste, including both surface and subsurface waste, have been removed from the Site.
4. A copy of receipts documenting that all scrap tires, scrap tire materials, and all other regulated solid waste were taken to an authorized facility.

5. Photographs of the areas where scrap tires were accumulated and other regulated solid waste was discarded or disposed of, before and after remediation.

6. Documentation that the STS was properly closed to prevent erosion on the Site, if applicable.

7. Documentation that the Site has been secured to prevent any future illegal dumping, if applicable.

F. 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.

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

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

ORDERED and ISSUED this ____ day of _____, 2026.

Edward F. Poolos

Director

Attachment A

Richard S. and Edward H. Burns

244 County Road 379

Boaz, DeKalb County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	Total of Three Factors
Unauthorized open burning	1	\$6,000	\$6,000	\$0	\$12,000
Creation of an illegal Scrap Tire Site	1	\$9,000	\$1,000	\$0	\$10,000
Transporting scrap tires without a Scrap Tire Transporter Permit	1	\$845	\$425	\$0	\$1,270
TOTAL PER FACTOR		\$15,845	\$7,425	\$0	\$23,270

Adjustments to Amount of Initial Penalty*	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	+\$150,000
	\$150,000

Economic Benefit (+) *	\$0
Amount of Initial Penalty	\$23,270
Total Adjustments (+/-)	\$150,000
FINAL PENALTY	\$173,270

Footnotes

¹ Additive fine of five dollars (\$5) per tire as required by the Code of Alabama § 22-40A-19(e).

* See the "Findings" portion of the Order for a detailed description of each violation and the penalty factors.