**Memorandum Florida Department of Environmental Protection**

To: Aaron Watkins, District Director

 Central District

 Nathan Hess, Assistant District Director

 Central District

Through: Jill Farris, Environmental Manager

From: Amada Fernandez, CAP Inspector

Date: January 12, 2021

Subject: Peer Review Request for Empire Tire Inc in Orlando, FL

The Central District Compliance Assurance Program is requesting a peer review for the following case.

**Division/Program: Solid Waste**

**Facility/Site ID No.** 95062

**Facility/Site Name:** Empire Tire Inc

**Facility Owner:** Empire Tire of Edgewater, LLC

**Facility Address/Location:** 550 N Mission Road, Orlando, in Orange County, FL

**Brief Description of Facility/Site**:

The facility is a permitted waste tire processing facility. [Permit No. 0287891-003-WT](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.293088.1%5d&%5bprofile=Permitting_Authorization%5d) was issued March 15, 2019 and expires March 14, 2024.

**Violations Summary:**

A routine operation inspection on January 5, 2021 revealed the following violations:

1. Failure to conduct an annual fire safety survey during 2020.
2. Failure to submit the required quarterly waste tire reports during 2020. The same violation was noted on the [2019](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.297713.1%5d&%5bprofile=Discovery_Compliance%5d) inspection report.
3. Failure to maintain a 50 feet wide fire lane around the perimeter of all outdoor waste tire piles. The same violation was also noted on the [2018](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.276977.1%5d&%5bprofile=Discovery_Compliance%5d), [2019](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.297713.1%5d&%5bprofile=Discovery_Compliance%5d) and [2020](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.309876.1%5d&%5bprofile=Discovery_Compliance%5d) inspection reports.
4. Failure to maintain fire lanes without obstructions. The same violation was noted on the [2018](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.276977.1%5d&%5bprofile=Discovery_Compliance%5d) and [2019](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.297713.1%5d&%5bprofile=Discovery_Compliance%5d) inspection report.

All required corrective action has been completed. A [fire safety survey](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.320825.1%5d&%5bprofile=Discovery_Compliance%5d) was completed by the Orlando Fire Department on January 27, 2021. On January 6, 2021, Clifton McFadden emailed the first, second and third quarter 2020 [waste tire reports](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.319986.1%5d&%5bprofile=Discovery_Compliance%5d). However, they were submitted late. The [fourth quarter waste tire report](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.320885.1%5d&%5bprofile=Discovery_Compliance%5d) was submitted on January 29, 2021. On January 25, 2021, Clifton McFadden [emailed](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.320614.1%5d&%5bprofile=Discovery_Compliance%5d) the Department photos demonstrating that all fire lanes have been corrected.

A [Warning Letter](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.319991.1%5d&%5bprofile=Enforcement_Legal%5d) was issued January 12, 2021 due to the facility’s following history of non-compliance. A [Warning Letter](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.297722.1%5d&%5bprofile=Enforcement_Legal%5d) was issued May 24, 2019. A [short form consent order](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.303931.1%5d&%5bprofile=Enforcement_Legal%5d) was executed October 10, 2019. A [Warning Letter](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.277450.1%5d&%5bprofile=Enforcement_Legal%5d) was issued May 4, 2018. The facility was returned to compliance without enforcement. A [closure letter](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&%5bguid=8.281733.1%5d&%5bprofile=Discovery_Compliance%5d) was issued July 9, 2018. All violations association with the two previous Warning Letters have been resolved.

**Violation Classification:**

1. Failure to conduct an annual fire safety survey in 2020. This violation is a Significant Non-Compliance (SNC). The extent of deviation is major because the facility failed to have an annual fire safety survey conducted within 180 days of the due date. The harm level is moderate.
2. Failure to submit quarterly reports. This violation is a Minor Non-Compliance (MNC). The extent of deviation is moderate because the facility failed to submit the reports within 6 months. The harm level is minor.
3. Failure to maintain 50 feet wide fire lanes around perimeter of outdoor waste tire piles. This violation is a Minor Non-Compliance (MNC). The extent of deviation is moderate due to the failure to meet any fire prevention or control requirement. The harm level is minor.
4. Failure to maintain unobstructed 50 feet wide fire lanes around perimeter of outdoor waste tire piles. This violation is a Minor Non-Compliance (MNC). The extent of deviation is moderate due to the failure to meet any fire prevention or control requirement. The harm level is minor.

**Proposed Enforcement & Penalty Calculation In lieu of Compliance Assistance:**

The District has calculated a civil penalty and Department costs for this case in accordance with the attached [penalty calculation work sheet](file:///%5C%5Cfloridadep%5Cdata%5CCD%5Call_common%5CSites%5COrange%5CSW%5CEmpire%20Tire%20WTP%20Facility_95062%5CEnforcement%5CSolid_Waste_Penalty_Spreadsheet_rev7_24_20_Empire%20Tire_final.xlsx).

The District proposes to resolve the case by issuance of a Short Form Consent Order to assess a penalty. All required corrective actions have been completed.