

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 335
Department or Agency: Alabama Department of Environmental Management Land Division - Solid Waste Program
Rule No.: 335-13-1-.03
Rule Title: Definitions
Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Jeffery W. Kitchens
Jeffery W. Kitchens

Date

Wednesday, April 17, 2024

REC'D & FILED

APR 17, 2024
LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION - SOLID  
WASTE PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

RULE NO. & TITLE: 335-13-1-.03 Definitions

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Revisions to the ADEM Administrative Code Div. 335-13-1-.03 are being proposed to clarify and add definitions.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held at 1:30 p.m., June 20, 2024, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110. Attendance at the hearing is not necessary to present such data, views, arguments, or comments. All comments should be received by 5:00 p.m., June 20, 2024.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, June 20, 2024

CONTACT PERSON AT AGENCY:

Lynn T. Roper 334-271-7728

*Jeffery W. Kitchens*

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Jeffery W. Kitchens

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

**335-13-1-.03            Definitions.**

For the purpose of these rules and regulations, the following words and phrases shall have the meanings ascribed to them in this rule and as ascribed by law unless the context of the regulations indicate differently.

(1) Act - the "Solid Wastes and Recyclable Materials Management Act", Act No. 151, Regular Session 2008 as amended (formerly the "Solid Waste Disposal Act, Act No. 771 Regular Session, 1969, as amended by Act No. 2247 Regular Session, 1971) Code of Ala. Alabama 1975, §22-27-1 et. seq.

(2) Active Life - the period of operation beginning with the initial receipt of solid waste and ending at completion of closure activities in accordance with the applicable requirements of rule 335-13-4-.20.

(3) Active Portion (or Active Footprint) - that part of a facility or unit that has received, is receiving, or is authorized and maintained as capable to receive wastes, and that has not been closed in accordance with the applicable requirements of rule 335-13-4-.20.

(4) Adjacent Property Owner - an owner whose property is adjacent to a proposed site.

(5) Agency - any controlling agency, public or private, elected, appointed or volunteer utilizing methods approved by the Health Department or the Department for the purpose of controlling and supervising the collection or management of solid wastes or recyclable materials.

(6) Airport - public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(7) Alternative cover - material other than earth used to cover a landfill or sanitary landfill. An alternative cover shall be approved by the Department in compliance with federal law and the USEPA rules for guidance to achieve a level of performance equal to or greater than earthen cover material.

(8) Ambient - normal atmospheric conditions.

(9) Annular Space of a Well - the space between the bore hole and the casing.

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(10) Aquifer - a geologic formation, group of formations or part of a formation capable of yielding a significant amount of groundwater to wells, springs or waters of the State.

(11) Areas Susceptible To Mass Movement - those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the landfill unit, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.

(12) Ashes - the solid residue from burning of wood, coal, coke or other combustible material used for heating, the burning or incineration of solid wastes, or for the production of electricity at electric generating plants.

(13) ASTM International - American Society for Testing and Materials International. A not-for-profit standards development company with headquarters located at 100 Barr Harbor Drive (PO Box C700) in West Conshohocken, Pennsylvania, 19428-2959, which develops and publishes technical standards for materials, products, systems, and ~~serv~~services.

(14) Beach - For this definition, refer to Division 8 of the ADEM Administrative Code.

(15) Bird Hazard - an increase in the likelihood of bird/ aircraft collisions that may cause damage to the aircraft or injury to its occupants.

(16) Bladeable - the physical condition of a sludge or similar waste. Physical conditions include, but are not limited to, the absence of free liquids and of a consistency that can be easily managed by heavy equipment normally utilized at a landfill unit.

(17) Bore Hole - a man-made hole in a geological formation which has been drilled, jetted, driven or made by other similar techniques.

(18) CCR unit - any CCR landfill, CCR surface impoundment, or lateral expansion of a CCR unit, or a combination of more than one of these units, based on the context of the paragraph(s) in which it is used. This term includes both new and existing units, unless otherwise specified.

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(19) Cell - a volume of compacted solid waste that is covered by means of compacted earth or some other approved alternative cover usually on a daily or weekly basis in a landfill unit.

(20) Certification - a statement of professional opinion based upon knowledge and belief.

(21) CFR - Code of Federal Regulations.

(22) Closure - the process by which a landfill unit permanently ceases to accept waste, to include those actions taken by the permittee or owner of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses.

(23) Coal Combustion By-products - fly ash, bottom ash, boiler slag, or flue gas emission control by-products which result primarily from the combustion of coal or other fossil fuels at electric generating plants.

(24) Coastal Area - for this definition, refer to Division 8 of the ADEM Administrative Code.

(25) Coastal Waters - those waters adjacent to the shoreline, which contain a measurable quantity or percentage of seawater, including but not limited to, sounds, bays, lagoons, bayous, ponds and estuaries.

(26) Commercial Solid Waste - all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

(27) Composite Liner - a system consisting of two components; the upper component must consist of a minimum 40 mil flexible membrane liner (FML), and the lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  cm/sec. FML components consisting of High Density Polyethylene (HDPE) shall be at least 60 mil thick. The FML component must be installed in direct and uniform contact with the compacted soil component.

(28) Composting or Compost Plant - an officially controlled method or operation whereby putrescible solid wastes are broken down through microbic action to a material offering no hazard or nuisance factors to public health or well-being.

(29) Construction/Demolition-Inert Landfill Unit (C/DLF) - a discrete area of land or an excavation that receives

construction/demolition waste, and/or rubbish and/or water treatment (alum) sludge, foundry waste meeting rule 335-13-4-.26(3), and that is not a land application unit, surface impoundment, or injection well as those terms are defined in this rule.

(30) Construction/Demolition Waste - waste building materials, packaging, and rubble resulting from construction, remodeling, repair, or demolition operations on houses, commercial buildings, and other structures. Such wastes include, but are not limited to, masonry materials, sheet rock, roofing waste, insulation (not including asbestos), scrap metal, and wood products. Uncontaminated concrete, soil, brick, waste asphalt paving, ash resulting from the combustion of untreated wood, rock, and similar materials are excluded from this definition.

(31) Contingency Plan - a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion or release of solid waste which could threaten human health or the environment.

(32) Cover - soil or alternative material approved by the Department that is used to cover compacted solid waste in a landfill unit.

(33) Decontamination - a process of reducing or eliminating the presence of harmful substances, such as infectious agents, so as to reduce the likelihood of disease transmission from those substances.

(34) Department - the Alabama Department of Environmental Management as established by Code of Ala. Alabama 1975, §22-22A-4.

(35) Destruction or Adverse Modification - a direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.

(36) Director - the Director of the Alabama Department of Environmental Management, appointed pursuant to Code of Ala. Alabama 1975, §22-22A-4, or his or her designee.

(37) Discarded Material - material thrown away, abandoned, disposed of, or otherwise given up without intent to reuse, recycle or reclaim.

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(38) Discharge - the accidental or intentional spilling, leaking, pumping, emitting, emptying, or dumping of solid waste, including leachate, into or on any land or water.

(39) Disease Vector - an organism that is capable of transmitting a disease from one host to another.

(40) Displacement - the relative movement of any two sides of a fault measured in any direction.

(41) Disposal - the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including, but not limited to, ground waters.

(42) Disposal Area - that portion of the facility that is designated for disposal, as defined in 335-13-1-.03.

(43) Drill Cuttings - solid materials generated by subsurface drilling operations.

(44) Dune - (see definition of primary dune system)

~~(45) Endangered or Threatened Species - any species listed as such pursuant to Section 4 of the Endangered Species Act of 1973, as amended.~~

~~(46)~~ (45) Electric Generating Plants - an industrial site, or that portion of an industrial site, that produces electricity, to be used either on-site or off-site.

(46) Endangered or Threatened Species - any species listed as such pursuant to Section 4 of the Endangered Species Act of 1973, as amended.

(47) End Use Manufacturing Facility or End Use Facility - a site that receives and utilizes recovered or recyclable materials to be used in place of a raw material in order to produce a product(s) that distinctly changes the physical characteristics of the materials, or a solid waste incinerator, or a waste to energy facility.

(48) Engineer - a person currently registered as a professional engineer with the State of Alabama Board of Registration for Professional Engineers and Land Surveyors.

~~(48)~~

(49) Explosive Gas - a gas that is explosive under ordinary conditions as used herein generally refers to methane-(CH<sub>4</sub>).

~~(49)~~

(50) Facility - all contiguous land, structures and other appurtenances used for the processing, treatment, storage or disposal of solid waste, or the recovery of recyclable materials from solid waste, whether or not authorized or permitted, including, but not limited to, waste disposal areas and waste disposed therein.

~~(50)~~

(51) Facility Structures - any buildings and sheds or utility or drainage lines on the facility.

~~(51)~~

(52) Fault - a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to that on the other side.

~~(52)~~

(53) Financial Assurance - a financial arrangement by the owner or operator of a municipal solid waste landfill which guarantees the availability of funds which may be used to close, provide post-closure care, or conduct corrective action at that facility if the owner or operator fails to properly execute his or her responsibilities under this article and any rules promulgated by the Department for closure, post-closure care, or corrective action and the terms of any permit issued for operation of that facility.

~~(53)~~

(54) Floodplain - the lowland and relatively flat areas adjoining inland and coastal waters, including flood prone areas of offshore islands, which are inundated by the 100-year flood.

~~(54)~~

(55) Foundry Waste - waste, including but not limited to, slag, sand, baghouse dust, etc. generated from foundry smelting and metal casting processes.

~~(55)~~

(56) Free Liquids - liquids which readily separate from the solid portion of a waste under ambient temperature and pressure as determined by the Paint Filter Test referenced in USEPA Publication SW-846, Method 9095.

~~(56)~~

(57) Garbage - putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food, including, but not limited to, waste from markets, storage facilities, handling and sale of produce and other food products and excepting such materials that may be serviced by garbage grinders and handled as household sewage.

~~(57)~~

(58) Gas Condensate - the liquid generated as a result of the gas collection and recovery process at the landfill unit.

~~(58)~~

(59) Generation - the act or process of producing solid waste. Solid waste shall be considered to be generated at the point



that waste materials are first discarded or collected, regardless of any subsequent materials recovery or recycling.

~~(59)~~ -

(60) Generator - any person who utilizes any process or conducts any activity which results in the production of solid waste.

~~(60)~~ -

(61) Groundwater - water below the land surface in the zone of saturation.

~~(61)~~ -

(62) Hazardous constituents - those substances listed in 335-14-2 Appendix VIII and/or 335-14-5 Appendix IX and include hazardous constituents released from solid waste, hazardous waste, or hazardous waste constituents that are reaction by-products.

~~(62)~~ -

(63) Hazardous Waste - those wastes defined in, and regulated under, Division 14 of the ADEM Administrative Code.

~~(63)~~ -

(64) Health Department - an approved county or district health department, including the Alabama State Department of Public Health and the affected state and county health department.

~~(64)~~ -

(65) Health Officer - the State or affected county health officer or his or her designee.

~~(65)~~ -

(66) Holocene - the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch, at 11,700 years before present, to the present.

~~(66)~~ -

(67) Household Waste - any solid waste, including, but not limited to, garbage, trash, and sanitary waste in septic tanks derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas. Sanitary waste in septic tanks shall be considered as household waste only when it is disposed in a landfill or unauthorized dump and its inclusion as a household waste shall in no way prohibit or supersede the authority of the Department or the Health Department to regulate onsite sewage systems or the management of sanitary waste in septic tanks.

~~(67)~~ -

(68) Incinerator or Combustion Unit - a device designed to burn that portion of garbage and rubbish which will be consumed at temperatures generally ranging 1600 degrees Fahrenheit or over. The unburned residue from an incinerator, including metal, glass, and the like shall be called ashes.

~~(68)~~ -

(69) Industrial Landfill (ILF) Unit - a discrete area of land or an excavation that receives industrial solid waste and may in

addition receive construction/demolition waste and/or rubbish and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined in this rule.

~~(69)~~ \_

(70) Industrial Solid Waste - solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Chapters 22 to 30, inclusive, of Title 22, -Code of Ala. Alabama 1975, and the regulations promulgated thereunder.

~~(70)~~ \_

(71) Infectious Agent - any organism (such as a virus or a bacterium) that is capable of causing disease or adverse health impacts in humans by invasion and multiplication in body tissues, fluids or secretions.

~~(71)~~ \_

(72) Injection Well - a bored, drilled, or driven shaft or dug hole which is used for the injection of pollutants.

~~(72)~~ \_

(73) Innocent Landowner - an owner of real property upon which there is located an unauthorized dump and who meets all of the following conditions:

(a) The solid waste was disposed of on the property after the owner acquired title to the property or the waste was disposed of before the owner acquired title to the property and the owner lacked actual knowledge of the waste after conducting reasonable due diligence or title was acquired by bequest or devise.

(b) The owner did not have knowledge that the waste was being disposed of on the property or the owner took steps, including, but not limited to, posting signs to prevent disposal on the property.

(c) The owner did not participate in or consent to the disposal of solid waste on the property.

(d) The owner did not receive any financial benefit from the disposal of solid waste on the property.

(e) Title to the property was not transferred to the owner for the purpose of evading liability for operating an unauthorized dump.

(f) The person or persons responsible for disposing of the solid waste on the property, in doing so, was not acting as an agent for the owner.

~~(73)~~ \_

(74) Karst Terrains - areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terrains include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

~~(74)~~

(75) Land Application Unit - an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for agricultural purposes or for treatment and disposal.

~~(75)~~

(76) Landfill (LF) - a method of compaction and earth or alternative cover of solid wastes other than those containing garbage or other putrescible wastes, including, but not limited to, tree limbs and stumps, demolition materials, incinerator residues, and like materials not constituting a health or nuisance hazard, where cover need not be applied on a per day used basis.

~~(76)~~

(77) Landfill (LF) Unit - this term shall include MSWLF, C/DLF, ILF units.

~~(77)~~

(78) Land Surveyor - a person currently registered as a land surveyor with the State of Alabama Board of Registration for Professional Engineers and Land Surveyors.

~~(78)~~

(79) Lateral Expansion - a horizontal expansion of the waste boundaries of an existing landfill unit.

~~(79)~~

(80) Leachate - any liquid, including any soluble, suspended or miscible components in the liquid, that has percolated through or emerged from solid waste other than construction/demolition waste and or rubbish.

~~(80)~~

(81) Leachate Recirculation - the recycling or reintroduction of leachate into or on a landfill unit constructed with liners and leachate collection systems.

~~(81)~~

(82) Lift - the compacted vertical thickness of a horizontal series of cells which have been accumulated and covered with earth or some other approved alternative cover. The cover may be either daily, weekly, intermediate, or final as required.

~~(82)~~

(83) Liquid Waste - any waste material that is determined to contain "free liquids" as defined by Method 9095 (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Pub. No. SW-846), and is not considered bladeable.

~~(83)~~

(84) Lithified Earth Material - all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

~~(84)~~

(85) Lower Explosive Limit (LEL) - the lowest percent by volume of a mixture of explosive gases which will propagate a °flame in air at 25 C and atmospheric pressure. For methane (CH<sub>4</sub>) the LEL is considered to be 5 percent.

~~(85)~~

(86) Materials Recovery Facility - a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials. A materials recovery facility shall be deemed to be a solid waste treatment facility.

~~(86)~~

(87) Maximum Contaminant Level (MCL) - the maximum permissible level of a contaminant allowed in the saturated zone unless occurring naturally or found to already exist during background sampling.

~~(87)~~

(88) Maximum Horizontal Acceleration in Lithified Earth Material - the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

~~(88)~~

(89) Medical Waste - any infectious solid or liquid waste from a medical waste generator, as defined in chapter 335-17-1.

~~(89)~~

(90) Municipal Solid Waste Landfill (MSWLF) Unit - a discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile. A municipal solid waste landfill may also receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, very small quantity generator waste, industrial solid waste, construction/demolition waste, and rubbish. A municipal solid waste landfill is a sanitary landfill. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion.

~~(90)~~

(91) Off-site - not a part of what is defined as on-site.

~~(91)~~

(92) On-site - the same or geographically contiguous property which may be divided by public or private right-of-way. Non-contiguous properties owned by the same person or entity connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.

~~(92)~~

(93) One Hundred-Year flood - a flood that has a one percent or greater chance of recurring in any given year or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period.

~~(93)~~

(94) Open Burning - the combustion of any material without the following characteristics:

(a) Control of combustion air to maintain adequate temperature for efficient combustion.

(b) Containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and

(c) Control of emission of the gaseous combustion products.

~~(94)~~

(95) Operating Record - a collection of documents relating to the permitting or operation of any landfill unit as listed in rule 335-13-4-.29.

~~(95)~~

(96) Operator - the person(s) having direct supervision over and responsibility for the daily operation of a landfill unit or part of a landfill unit.

~~(96)~~

(97) Owner - the person(s) who owns a facility or part of a facility.

~~(97)~~

(98) Partial Closure - the closure of a discrete part of a facility in accordance with the applicable closure requirements of rule 335-13-4-.20. For example, partial closure may include the closure of a trench, a unit operation, a landfill cell or a pit, while other parts of the same facility continue in operation or will be placed in operation in the future.

~~(98)~~

(99) Permit - written authorization granted to a person by the Department to operate a solid waste management facility for the disposal of solid waste.

~~(99)~~

(100) Permittee - any person possessing a valid permit issued by the Department to dispose of solid waste. This person is responsible for the overall operation of a solid waste facility.

~~(100)~~

(101) Person - any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, agent, agency, association, State, municipality, commission, political subdivision of a state, any interstate body, or any other private or public legal entity.

~~(101)~~

(102) Personnel - all persons who work at or supervise the operations of a solid waste facility, and whose actions or inactions may be responsible for achieving compliance with the requirements of this Division.

~~(102)~~

(103) Petroleum Contaminated Waste (PCW) - any material, including but not limited to soil, debris, absorbent pads/booms, oil dry, etc., that has been exposed to petroleum products in such a manner that the petroleum product can be detected by a total petroleum hydrocarbon (TPH) analysis using Standard Method 503 D & E, EPA Methods 9071 or 418.1 (Spectrophotometric, Infrared, and that analysis exceeds 100 ppm TPH.

~~(103)~~

(104) Poor Foundation Conditions - those areas where features exist which indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a landfill unit.

~~(104)~~

(105) Post Closure - the activities, including monitoring and maintenance at the site, following completion of closure activities if solid waste will remain at the site after closure.

~~(105)~~

(106) Practice - any operating method, technique or procedure for the management of solid waste.

~~(106)~~

(107) Primary Dune System - for this definition, refer to Division 8 of the ADEM Administrative Code.

~~(107)~~

(108) Private Solid Waste Management Facility - a solid waste management facility that is operated exclusively by and for a private solid waste generator for the purpose of accepting solid waste generated on-site or by the permittee.

~~(108)~~

(109) Product - any material which is an intended output or result of a fabrication, manufacturing or production process, and is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity. A product must be managed as an item of value in a

controlled manner and is not to be managed as a discarded material.

~~(109)~~

(110) Proposed site - total acreage as identified by the legal survey included in the application submitted to the Department.

~~(110)~~

(111) Public Solid Waste Management Facility - a solid waste management facility that accepts solid waste from the public generally or for a fee, or any solid waste management facility that is not a private solid waste management facility.

~~(111)~~

(112) Qualified Groundwater Scientist - a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and corrective-action.

~~(112)~~

(113) Recovered Materials - those materials which have known recycling potential; which can be feasibly recycled; which have been diverted or removed from the solid waste stream for recycling, whether or not requiring subsequent separation and processing; and which have a substantial portion that are consistently used in the manufacture of products which may otherwise be produced from raw or virgin materials. Recovered materials shall not include solvents or materials, except sawdust, bark, and paper materials that are destined for incineration, energy recovery, or any use which constitutes disposal. Recovered materials shall only be those materials for which during the calendar year (commencing on January 1), the amount of material recycled or diverted from the solid waste stream for recycling and transferred to a different site for recycling equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period.

~~(113)~~

(114) Recovered Materials Processing Facility - a facility primarily engaged in the storage, processing, and resale or reuse of recovered materials. A recovered materials processing facility is not a solid waste management facility; however, any solid waste resulting from the operation of a facility shall be subject to all applicable laws and regulations relating to solid waste and shall be deemed to be generated for purposes of reporting pursuant to solid waste reduction goals, at the point of collection of the recovered materials from which the solid waste resulted. A recovered material processing facility shall

provide notification to the Department according to rules adopted by the Department.

~~(114)~~

(115) Recyclable Materials - those materials which are capable of being recycled, whether or not the materials have been diverted or removed from the solid waste stream.

~~(115)~~

(116) Recycling - any process by which materials are collected, separated, stored, recovered, or processed and reused or returned to use in the form of raw materials or products, but does not include the use of materials as a fuel, or for any use which constitutes disposal.

~~(116)~~

(117) Relevant Point of Compliance - That point within the first saturated zone at which groundwater quality must be in compliance with water quality standards set forth by rule 335-13-4-.27. Groundwater monitoring wells are to be located in order to yield samples that are representative of the quality of groundwater passing the ~~relative~~relevant point of compliance.

~~(117)~~

(118) Representative Sample - a sample of a universe or whole (e.g., waste pile, lagoon, and groundwater) which can be expected to exhibit the average properties of the universe or whole. See EPA publication SW-846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Chapter 9 for a discussion and examples of representative samples.

~~(118)~~

(119) Responsible Official-the responsible official is defined as:

(a) For a corporation, a principal executive officer of at least the level of vice president, or his designee through a written delegation of this authority.

(b) For a partnership or limited partnership, a general partner.

(c) For a sole proprietorship, the proprietor.

(d) For a municipality, State, federal or other public agency to include governmental non-profit organizations, either a principal executive or ranking elected official.

(e) For a limited liability company, a manager designated by the members of the limited liability company to manage the limited liability company as provided in the articles of organization.

(120) Rubbish - nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes. Combustible rubbish includes paper, rags, cartons, wood,



furniture, rubber, plastics, and similar materials. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture and like materials which will not burn at ordinary incinerator temperatures, not less than 1600 degree F. Uncontaminated concrete, soil, brick, waste asphalt paving, ash resulting from the combustion of untreated wood, rock, yard trimmings, leaves, stumps, limbs and similar materials are excluded from this definition.

~~(119)~~ -

(121) Run-Off - any rainwater, leachate, or other liquid that drains over land from any part of a facility.

~~(120)~~ -

(122) Run-On - any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

~~(121)~~ -

(123) Salvaging - the controlled removal for reuse of material from a solid waste landfill unit.

~~(122)~~ -

(124) Sanitary Landfill - a controlled area of land upon which solid waste is deposited and is compacted and covered with compacted earth or an alternative cover each day as deposited, with no on-site burning of wastes, and so located, contoured and drained that it will not constitute a source of water pollution as determined by the Department. See definition of "Municipal Solid Waste Landfill Unit."

~~(123)~~ -

(125) Sanitary Sewer - any device or system used in the treatment of municipal sewage or industrial waste of a liquid nature. This includes sewers, pipes or other conveyances only if they convey wastewater to a facility providing treatment.

~~(124)~~ -

(126) Saturated Zone - that part of the earth's crust in which all voids are filled with water.

~~(125)~~ -

(127) Scavenging - the unauthorized removal of solid waste from a landfill unit permitted under these regulations.

~~(126)~~ -

(128) Seismic Impact Zone - an area with a ten percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10 g in 250 years.

~~(127)~~ -

(129) Service Area - the geographical area serviced by a solid waste facility from which solid waste is generated and collected, including any interim points, (i.e., transfer stations) at which the solid waste is repacked or reloaded onto vehicles or other methods of transport for delivery to that facility. For public solid waste management facilities, the service area is established as part of the local host government

approval process, as described in- Code of Ala. Alabama 1975, §22-27-48 and 48.1.

~~(128)~~

(130) Sludge - any nonhazardous, solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

~~(129)~~

(131) Solid Waste - any garbage, rubbish, construction or demolition debris, ash, or sludge from a waste treatment facility, water supply plant, or air pollution control facility, and any other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or community activities, or materials intended for or capable of recycling, but which have not been diverted or removed from the solid waste stream. The term "solid waste" does not include recovered materials, solid or dissolved materials in domestic sewage, solid or dissolved material in irrigation return flows, or industrial discharges which are point sources subject to the National Pollutant Discharge Elimination System permits under the Federal Water Pollution Control Act, as amended, or the Alabama Water Pollution Control Act, as amended, or source, special, nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are land applications of crop residues, animal manure, and ash resulting exclusively from the combustion of wood during accepted agricultural operations, waste from silvicultural operations, or refuse as defined and regulated pursuant to the Alabama Surface Mining Act of 1969 (Article 1, Chapter 16, Title 9, Sections 9-16-1 to 9-16-15, Code of Ala. Alabama 1975).

~~(130)~~

(132) Solid Waste Boundary - the outermost perimeter of the solid waste, projected in the horizontal plane, as it would exist at completion of the disposal activity.

~~(131)~~

(133) Solid Waste Disposal Facility - any landfill or part of a facility where final disposition of solid waste occurs and at which waste may remain after closure.

~~(132)~~

(134) Solid Waste Management - the systematic control of solid waste including its storage, processing, treatment, recovery of materials from solid waste, or disposal.

~~(133)~~

(135) Solid Waste Management Facility - any solid waste volume reduction plant, transfer station, material recovery facility, or other facility, the purpose of which is the storage,

treatment, utilization, processing, disposal, or recovery of materials from solid waste, or any combination thereof.

~~(134)~~

(136) Special Waste - those wastes requiring specific processing, handling or disposal techniques as determined necessary by the Department which are different from the techniques normally utilized for handling or disposal. Examples of such waste types may include, but are not limited to: mining waste, fly ash, bottom ash, sludges, friable asbestos, industrial waste, liquid waste, large dead animals or large quantities of dead animals and residue, medical waste, foundry waste, petroleum contaminated wastes, municipal solid waste ash, or contaminated soil and water from the cleanup of a spill.

~~(135)~~

(137) Spill - the unplanned, accidental or unpermitted discharge, deposit, injection, leaking, pumping, pouring, emitting, dumping, placing or releasing of solid or medical waste, or materials which when spilled become solid or medical waste, into or on the land, the air or the water.

~~(136)~~

(138) State - the State of Alabama.

~~(137)~~

(139) State Health Department - the Alabama Department of Public Health as defined by §22-1-1, Code of Ala. Alabama 1975.

~~(138)~~

(140) State Health Officer - the Health Officer for the State of Alabama as set out in §22-2-8, Code of Ala. Alabama 1975, or his or her designee provided by law.

~~(139)~~

(141) Structural Components - liners, leachate collection systems, final covers, run-on/run-off systems, and any other component used in the construction and operation of the landfill unit that is necessary for protection of human health and the environment.

~~(140)~~

(142) Surface Impoundment or Impoundment - a facility or part of a facility that is a natural topographic depression, human-made excavation, or diked area formed primarily of earthen materials (although it may be lined with human-made materials), that is designed to hold an accumulation of liquid wastes or wastes containing free liquids and that is not an injection well. Examples of surface impoundments are holding storage, settling, and aeration pits, ponds and lagoons.

~~(141)~~

(143) Twenty-Four Hour, Twenty-Five Year Storm (24 hour, 25 year Storm) - the maximum 24 hour precipitation event with a probable reoccurrence interval of once in twenty-five years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U. S.", May 1961, and

subsequent amendments or equivalent regional or rainfall probability information developed therefrom.

~~(142)~~

(144) Unauthorized Dump - any collection of solid wastes either dumped or caused to be dumped or placed on any public or private property, whether or not regularly used, and not having a permit from the Department. Abandoned automobiles, large appliances or similar large items of solid waste shall be considered as forming an unauthorized dump within the meaning of this Division. The careless littering of a relatively few, smaller individual items such as tires, bottles, cans and the like shall not be considered an unauthorized dump, unless the accumulation of the solid waste poses a threat to human health or the environment. An unauthorized dump shall also mean any solid waste disposal site which does not meet the regulatory provisions of this Division.

~~(143)~~

(145) Unstable Area - a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

~~(144)~~

(146) Uppermost Aquifer - the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

~~(145)~~

(147) Washout - the carrying away of solid waste or cover by waters of a 100-year flood.

~~(146)~~

(148) Waste Management Unit Boundary - a vertical surface located at the hydraulically downgradient limit of the unit. This vertical surface extends down into the uppermost aquifer.

~~(147)~~

(149) Waste Pile or Pile - any noncontainerized accumulation of solid, non-flowing waste that is used for treatment or storage.

~~(148)~~

(150) Waters of the State (Waters) - all waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the State, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership or corporation unless such waters are used in interstate commerce.

~~(149)~~

(151) Wetlands - those areas as defined by the U.S. Army Corps of Engineers regulations.

~~(150)~~

(152) Wood Ash Waste - solid waste resulting from the burning of untreated wood with minimal amounts (<10% of total fuel based on a mass input basis) of other non-coal permitted solid fuels. Ash resulting exclusively from the combustion of non-processed and untreated wood is excluded from the definition of wood ash waste.

~~(151)~~

(153) Working Face - the area within a solid waste disposal facility that is actively receiving solid waste for compaction and cover.

**Author:** Russell A. Kelly, Phillip D. Davis, James L. Bryant, Eric L. Sanderson, S. Scott Story, Heather M. Jones. Jason Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §§22-27-2, 22-27-7, 22-27-9, 22-27-12.

**History:** Effective: November 18, 1981; **Amended:** July 21, 1988; October 2, 1990. **Amended:** Filed September 28, 1993; effective November 2, 1993. **Amended:** Filed June 21, 1996; effective July 26, 1996. **Amended:** Filed June 28, 2010; effective August 2, 2010. **Amended:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Filed February 23, 2016; effective April 8, 2016. **Amended:** Filed April 24, 2018; effective June 8, 2018. **Amended:** Filed June 25, 2019; effective July 9, 2019. **Amended:** Published October 29, 2021; effective December 13, 2021. **Amended:** Published ; effective .

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 335
Department or Agency: Alabama Department of Environmental Management Land Division - Solid Waste Program
Rule No.: Chapter 335-13-3
Rule Title: Processing and Recycling
Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Jeffery W. Kitchens
Jeffery W. Kitchens

Date

Wednesday, April 17, 2024

REC'D & FILED

APR 17, 2024

LEGISLATIVE SVC AGENCY

APA-2

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION - SOLID  
WASTE PROGRAM**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Alabama Department of Environmental Management

**RULE NO. & TITLE:** Chapter 335-13-3 Processing and Recycling

**INTENDED ACTION:** Amend

**SUBSTANCE OF PROPOSED ACTION:**

Revisions to the ADEM Administrative Code Div. 335-13-3 are being proposed to clarify information regarding the application process, update requirements for notification and registration, amend variance requirements, and make general needed updates throughout to be consistent with the statute.

**TIME, PLACE AND MANNER OF PRESENTING VIEWS:**

Comments may be submitted in writing or orally at a public hearing to be held at 1:30 p.m., June 20, 2024, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110. Attendance at the hearing is not necessary to present such data, views, arguments, or comments. All comments should be received by 5:00 p.m., June 20, 2024.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**

Thursday, June 20, 2024

**CONTACT PERSON AT AGENCY:**

Lynn T. Roper, 334-271-7728

*Jeffery W. Kitchens*

---

Jeffery W. Kitchens

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION -  
SOLID WASTE PROGRAM  
ADMINISTRATIVE CODE

CHAPTER 335-13-3  
PROCESSING AND RECYCLING

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335-13-3-.01	<u>Purpose And Applicability.</u>

—

This regulation establishes the operating standards applicable to Materials Recovery Facilities, ~~Recoverable Materials Processing Facilities, and other facilities that receive, store, process and sale recovered materials that are not used on any on-site, end-use manufacturing process~~ Recovered Materials Processing Facilities, and other facilities that receive, store, process and sell recovered materials. These regulations further establish the minimum reporting and recordkeeping requirements necessary for subject facilities. Subject facilities include, but are not limited to, those that recover recyclable materials from the solid waste stream, ~~are those that initially~~ obtain recyclable materials which have been removed from the solid waste stream and determined to be recyclable by the generator of those materials, and end use facilities as defined in rule 335-13-1. In addition, these regulations establish notification requirements of End Use Manufacturing Facilities/ End Use Facilities. ~~. The requirements of this Chapter are not applicable to end-use facilities where recyclable or recovered materials are received by that facility strictly for use in its manufacturing process as a fuel, raw material or as a substitute for a commercial product.~~

**Author:** Phillip D. Davis, M. Gavin Adams. Jason Wilson, Blake B. Pruitt



**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §§22-27-12, 22-27-15, 22-27-16.

**History: Repealed:** June 21, 1996; effective July 26, 1996. **New**

**Rule:** Filed June 28, 2010; effective August 2, 2010. Amended:  
Published ; effective .

335-13-3-.02

Facility Registration and Notification.

—  
(1) No person may receive, store, process or transfer recyclable material or recovered material without being properly registered with the Department, except as described in Rule 335-13-3-.02 ~~(3)~~ (5). Any person who operates a Materials Recovery Facility or a Recovered Materials Processing Facility, without having applied for registration with the Department shall be considered to be operating an unpermitted solid waste management facility and shall be subject to enforcement action in accordance with this Division.

—  
(2) ~~The owner or operator~~All applications, reports required by permits or registrations, or other information requested by ADEM shall be signed and completed electronically by a responsible official as defined in 335-13-1-.03 or by a duly authorized representative.

—  
(3) All existing registered facilities will be subject to periodic renewal of the initial registration issued by the Department. Within one hundred eighty (180) days of the effective date of these regulations, all existing registered facilities shall submit an application for registration renewal on a form designated by Department. Facilities that do not submit an application for registration renewal within one hundred eighty (180) days of the effective date of these regulations, shall have their registration deactivated. ~~of each facility in existence on the effective date of this Rule shall file an application for registration with ADEM not later than October 1, 2010. The owner or operator of each new Materials Recovery Facility or Recovered Materials Processing Facility desiring~~

—  
(4) Each registration issued will be valid for five (5) years. Renewal applications must be submitted electronically at least

forty-five (45) days prior to expiration. Facilities that begin operation after the effective date of ~~this Chapter shall file an application for registration at least forty-five (45) days prior to receiving materials, or by October 1, 2~~these regulations shall submit an application electronically for registration at least forty-five (45) days prior to receiving materials.

~~\_010, whichever is later.~~

(a) ~~Each~~The following information shall be submitted electronically by the owner or operator of the Materials Recovery Facility or Recovered Materials Processing Facility ~~on owner or operator of a subject facility shall register with ADEM utilizing a form designated by the Department. In addition to the designated form, the following information shall be submitted:~~

1. An ~~initial~~accurate physical address, latitude and longitude of the front access gate of the facility, mailing address (if different from physical address), owner or operator information, and facility contact information.

2. A listing of the types and estimated tons of material or materials to be received, stored, processed or transferred by the facility ~~in a manner to be specified by the Department.~~

3. A general description of the destination (further processor, end use, or disposal) ~~for. A general description of the plans for end-market uses of~~ all materials to be collected, stored and processed. Such plans are not required to include specific information on quantities to be shipped to specific facilities, names of facilities or other information that may be ~~deemed~~established as business confidential by the registrant.

4. Documentation. ~~Statement~~ that the siting of the facility is on property whose local zoning permits such use, if applicable.

5. Site access controls to be utilized at the facility.

5

6. A site plan map which identifies and plots the location of all equipment, buildings, activities and areas related to the receipt, storage, processing, and transferring of all unprocessed and processed recyclable materials.

~~6. A statement that the facility is in compliance with the applicable requirements of ADEM Administrative Code Division 335-6, including but not limited to, permitting and best management practices (BMP).~~

7. A list of Departmental Permits, Registrations, and Certifications along with their respective Department assigned ID numbers, as applicable.

—

8. An operations plan which shall include, at a minimum, the following:

—

(i) Days and hours of operation of the facility and a description of when facility personnel will be on-site during hours of operation. If the facility is to include a drop-off point for after-hours operation or periods when facility will be unstaffed, a description of methods to prevent drop-off of non-acceptable or non-recoverable materials must be included.

—

~~(ii) A general listing of material types and anticipated tonnages to be received by the facility on a monthly basis and any size, weight or other restrictions placed on materials to be accepted.~~

~~(iii) A written narrative~~ description of facility operation from the receipt of recyclable materials to the point of transfer to end-~~users~~use manufacturing facilities, other recovered materials processing facilities, or disposal facilities.

~~(iv)~~

(iii) The maximum amount of each material to be stored or stockpiled at the facility. Owners/operators maintaining this information in volume shall convert and indicate the conversion methodology to weight in tons.

~~(v)~~

(iv) A description of major equipment to be utilized for the receipt, storage, processing or transfer of each material type.

~~(vi)~~\_

(v) Methods utilized to weigh or estimate weight of materials received.

~~(vii)~~\_

(vi) A description of the storage areas utilized for recovered materials to include indoor or outdoor, surfaces of storage areas, and methods to segregate materials to facilitate end-use.

~~(viii)~~\_

(vii) A statement indicating that the facility meets applicable state and local fire codes~~A statement indicating that the facility meets local fire codes, where applicable.~~

~~(ix)~~\_

(viii) A description of methods used to control vectors of public health importance which shall include, but not be limited to, rodents, flies and mosquitoes, and dust and litter at the facility. Such control shall be consistent with the administrative rules of the Health Department and the Department.

—

(b) Registrations are not transferable.

—

1. If a registered facility has a change in ownership, the prospective new owner shall register with the Department at least thirty (30) days prior to assuming ownership of the facility.

—

2. Changes in the name of a facility also require notification to the Department thirty (30) days prior to the ~~effect of the name change, and may require the payment of fees associated with such change that are required by Departmental regulation~~effective date of the name change, and require the payment of fees associated with such change in accordance with Departmental rules.

—

(c) If a materials recovery facility is found to be in significant noncompliance with the requirements of ~~this Division 335-13~~, the registration for the facility may be revoked or the application for registration denied by the Director.

—

1. The facility may request an informal conference with ADEM to discuss the revocation or denial by ADEM. Following this informal conference, the Director shall advise the facility of the final determination on the registration.

—

2. The registrant shall be responsible for the compliance of the registered facility with all applicable rules ~~notwithstanding~~notwithstanding the performance of compliance-related duties by independent contactors or agents.

—

(d) A registered facility that discontinues receiving, processing or utilizing recovered materials shall notify ADEM ~~within thirty (30) days of a change in operations and request that their registration be terminated~~thirty (30) days prior to a change in operations and request that their registration be deactivated. A closure plan for the facility must be submitted in accordance with ~~Rule 335-13-3-.07~~. All recovered materials and solid wastes shall be removed from the facility in accordance with the closure plan as outlined in 335-13-3-.07 before ADEM will deactivate~~before ADEM will terminate~~ the registration. Such removal shall be in accordance with all applicable regulations regarding recycling or disposal.

—

(e) The Department may specify in the registration for a facility the quantity and nature of recovered materials to be managed, in accordance with the application.

~~(3)~~ \_

(5) Exemptions. The following activities are exempt from the registration requirements imposed by ~~this Chapter. A facility engaged only in these activities is not required to register with ADEM under this Chapter~~335-13-3. A facility engaged only in these activities is not required to register with ADEM under 335-13-3.

—

(a) The receipt of source-separated recyclable asphalt and pre-consumer asphalt shingles or other asphalt based roofing, or a combination thereof by an asphalt manufacturing plant prior to its introduction into the asphalt manufacturing process.

—

(b) The recycling or reuse of materials which are generated, processed, and reused as a product, raw material or fuel exclusively at the point of generation by facility personnel or on-site contractor operations which are directly related to the operation of the facility.

—

(c) The receipt, storage, processing or transfer of grass clippings or other yard wastes, branches, stumps, limbs, brush, wood chips derived from tree parts, and/or other non-putrescible, non-food wastes which is regulated separately by ADEM under regulations regarding composting facilities and/or is specifically exempted from solid waste regulations.

—

(d) Scrap tire processing regulated under ~~Division~~ 335-4 Regulations.

—

(e) The processing and/or recycling of used oil and/or wastes regulated under ~~Division~~ 335-14 regulations, to include universal waste, provided only used oil ~~and~~ or wastes regulated under ~~Division~~ 335-14 are processed.

—

(f) Construction or contracting activities which, through the course of such activities generate source-separated recyclable materials to include asphalt, concrete, brick, or block, may store, process, or transfer the material provided all of the following apply:

—

1. The company or contractor is the generator of the materials.

—

2. Materials are stored in compliance with all applicable laws and regulations, including stormwater ~~BMP~~BMPs as required under 335-6.

—

3. Materials are stored on-site for a period not to exceed the shorter of one-year from generation or the completion of the construction project.

~~(g) Solid waste incinerators and waste-to-energy facilities that are regulated subject to the requirements of Division 3 of the ADEM Administrative Code, or similar local air pollution control regulations. These facilities shall be subject to the requirements of Rule 335-13-3-.04.~~

~~(4) Variances.~~

~~(a) Requests for variances from the requirements of this Chapter must be made in writing to ADEM and shall include sufficient documentation and information to allow ADEM to make a final determination on the variance request. Such documentation and information may include, but not be limited to:~~

~~1. A clear and complete statement of the precise extent of the relief sought including specific identification of the particular provisions of the regulations from which the variance is sought.~~

~~2. A concise factual statement with supporting evidence, environmental, economic and/or otherwise that establishes the need for the variance.~~

~~3. A statement of the impact that the variance will impose on public health and the environment.~~

~~4. A description of how granting of the variance will affect operations at the facility.~~

~~5. Any additional information as may be requested by the Department as necessary to evaluate the variance request.~~

~~6. The timeframe for which the variance is sought, if less than the applicable 3 year period as specified in Rule 335-13-3-.02(4)(d).~~

~~(b) ADEM will terminate review of the request if sufficient information is not submitted with the application.~~

~~(c) After review of the variance request, ADEM shall notify the applicant of its final decision regarding the request.~~

~~(d) A variance granted by ADEM shall be valid for a period of three (3) years. Application for renewal shall be made in writing and submitted to ADEM at least thirty (30) days prior to the expiration date of the current exemption.~~

~~(e) If processes or conditions that warranted the variance for the facility change during the term, the facility shall notify ADEM within thirty (30) days of the change. ADEM may terminate the variance on substantive changes to conditions upon which the original variance was granted.~~

~~(5)~~ (6) Certification. All applications, reports, requests for variances or exemption shall be signed by a responsible official or by a duly authorized representative as defined in 335-13-1-.03.~~representative as follows:~~

~~(a) For a corporation, by a principal executive officer of at least the level of vice president, or his designee through a written delegation of this authority.~~

~~(b) For a partnership or limited partnership, by a general partner.~~

~~(c) For a sole proprietorship, by the proprietor.~~

~~(d) For a municipality, State, federal or other public agency to include governmental non-profit organizations, by either a principal executive or ranking elected official.~~

~~(e) For a limited liability company, by a manager designated by the members of the limited liability company to manage the limited liability company as provided in the articles of organization.~~

~~(f)~~ All applications, reports, requests for variance or exemption shall contain the following statement, to be ~~signed~~certified by a responsible official or authorized representative:

—  
"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the



information, the information submitted is, to the best of my knowledge and belief, 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."

—

(7) End Use Facility Notification. The owner or operator of an End Use Manufacturing Facility or End Use Facility shall submit a notification of operation to the Department. The responsible official, owner, or operator of each facility shall submit an electronic notification with the following information:

—

(a) An accurate physical address, mailing address (if different from physical address), owner or operator information, and facility contact information.

—

(b) List of the types of materials to be received, stored, processed, or transferred by the facility.

**Author:** Phillip D. Davis, M. Gavin Adams, Jason Wilson, Blake B. Pruitt

**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §§22-27-12, 22-27-15, 22-27-16.

**History: Repealed:** June 21, 1996; effective July 26, 1996. **New**

**Rule:** Filed June 28, 2010; effective August 2, 2010. Amended:  
Published ; effective .

### 335-13-3-.03 Facility Design And Operation.

—

(1) Facility Design and Operation. Registered Materials Recovery Facilities and Recovered Materials Processing Facilities shall be designed and operated according to this ~~section~~rule in order to remain a properly registered facility. ~~Registered facilities that hold a valid NPDES permit shall be exempt from the facility design requirements of this Section.~~

—

(a) Failure to maintain minimum standards and operational requirements may result in revocation of the registration and may cause the facility to be subject to additional requirements of

335-13 and regulated as a Solid Waste Disposal Facility as defined in 335-13-1 or an unauthorized dump in accordance 335-13-1-.13~~registration and may cause the facility to be subject to and regulated under this Chapter as a Solid Waste Disposal Facility.~~

~~(b) Any facility in existence prior to the effective date of these regulations has one (1) year from the effective date of these regulations to comply with provisions for facility design and operation.~~

(2) Acceptance of Recyclable Materials. A facility may accept materials in accordance with the terms of ~~its~~the registration and in accordance with the materials listing provided by the facility with its registration application.

—

(a) Each facility shall notify the Department upon accepting any materials not previously approved in the registration. ~~Such notification shall be made in writing and be signed by the owner/operator or other responsible official as designated in the registration application. Notification is not required before accepting materials not designated in the registration application, but should be made as soon as practicable after materials acceptance.~~A registration modification application including the new material(s) must be submitted electronically to the Department within thirty (30) days of initial receipt.

—

(b) A facility regulated under ~~this Chapter~~these rules shall not accept recyclable materials without the proper receipt and documentation as required under 335-13-3-.05.

—

(c) No facility may accept, receive, purchase, or acquire any charred metal wire unless the registrant can demonstrate through receipts or other documentation that the material originated from a facility properly operating in accordance with applicable air pollution control requirements, including necessary permits and processing equipment with appropriate emission control devices.

—

(3) Recyclable Materials - Material Segregation and Storage. ~~Recyclable materials accepted by a facility must be properly segregated according to material type and stored in accordance with this section~~must be properly segregated according to

material type and stored in accordance with this rule. Storage of recyclable materials shall be in a manner to protect the integrity of the materials.

—

(a) A receptacle or area, such as a tipping pad/floor, should be designated for the receiving of incoming materials. The designated receptacle or area should be constructed in such a manner as to prevent exposure to precipitation and migration of materials off-site due to stormwater runoff, wind, or track-out by vehicles entering or leaving the facility site.

~~(a)~~ \_

(b) All receptacles or storage areas utilized for the storage of recyclable and waste materials should be separated from other receptacles or storage areas by a buffer such that all equipment for the movement of such materials may operate without migration of materials away from receptacle or storage areas.

—

1. Buffers between storage and ~~or~~ processing areas should be sufficient to minimize the commingling or combining of segregated material types to the extent that would adversely impact the ability to recycle the materials.

—

2. Unless specified differently in a facility's BMP plan, a buffer of no less than fifty (50) feet in width should be established and maintained between areas utilized for facility operations and the property boundaries in order to minimize migration of recyclable materials off-site. This buffer requirement shall not apply to materials located within enclosed warehouses or other buildings, nor to materials to be utilized on-site in the facility's manufacturing or processing activities.

~~(b)~~ \_

(c) Materials received by the facility shall be moved to the appropriate segregated storage area within seven (7) days of receipt.

—

(4) Recyclable Materials - Receptacles. Each facility should store materials in receptacles where necessary to protect the

integrity and/or marketability of accepted materials and to prevent migration of materials off-site.

—

(a) ~~If necessary, all~~All loose, unbaled newsprint, paper, and corrugated paper and cardboard should be stored in closed containers unless stored ~~under a structure suitable to prevent intrusion of rainwater and stormwater, and protected in a~~ structure suitable to prevent intrusion of rainwater and stormwater, and to protect materials from the exposure to the elements.

—

(b) All receptacles utilized to store recyclable materials and those utilized to store contaminated and/or non-recyclable materials generated or received by the facility as a small portion of recyclable shipments or drop-offs shall be clearly marked with the type of material to be deposited. No material other than that specified shall be deposited or stored therein.

—

(c) Exceptions to the requirement for receptacle storage may include the storage of materials which have been baled or otherwise bound to prevent migration of materials off-site.

—

(5) Storage Areas. Storage areas shall be maintained to prevent contamination of segregated materials. Materials not intended for recycling and destined for disposal shall be stored separately. Materials received or to be shipped shall be segregated and stored to prevent track-off and migration off-site.

—

(6) Signage. Each facility shall have and maintain at least one sign, clearly visible and legible from off-site, which states the name, address and telephone number of the registrant, recycling registration number, or owner/operator if different than the registrant contact, the types of materials accepted by the facility and, the hours during which the facility shall be open to the public, ~~and the name of the nearest permitted solid waste disposal facility and/or alternate materials recovery facility~~.

—

(7) Storage Areas to Be Kept Clean. The area surrounding receptacles or storage areas whether indoors or outdoors, should at all times be maintained in a clean manner. No recyclable or waste materials of any kind should be allowed to overflow from or accumulate around any receptacles or storage areas.

—

(8) Inspection by Owner/Operator or Responsible Person. The owner, operator or designated responsible person of each facility regulated under this ~~Chapter~~rule shall inspect the facility at least weekly. Such inspections shall be documented in an inspection log ~~by~~which includes date of inspection, person performing the inspection, areas of concern and corrective actions. Inspections shall include the following items:

—

(a) Existence of contamination in segregated storage areas. ~~Included shall be~~ which includes material storage areas containing more than one recyclable material type, and contamination of recyclables by solid wastes intended for disposal.

—

(b) Existence or the potential for recyclable material, or solid wastes intended for disposal, to migrate off-site either through stormwater runoff, wind or track-off by vehicular or equipment traffic.

—

(c) Unauthorized drop-off of wastes or materials not properly delivered to the facility such as those placed outside the facility boundary or any existing secured areas, and materials not accepted by the facility for recycling.

—

(d) Documentation of inspection findings requiring corrective action, including a description of the action taken and the date and time of the corrective action. Such corrective actions should be initiated within 48 hours of discovery.

—

(9) Fencing and Security. Facilities registered pursuant to ~~this Chapter~~these rules shall be secured by fencing or utilize other

means of access control as necessary to prevent unauthorized disposal or removal of recyclable materials or solid wastes.

**Author:** Phillip D. Davis, M. Gavin Adams. Jason Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of Ala. Alabama 1975, §§22-27-12, 22-27-15, 22-27-16.

**History: Repealed:** June 21, 1996; effective July 26, 1996. **New**

**Rule:** Filed June 28, 2010; effective August 2, 2010. Amended:  
Published ; effective .

335-13-3-.04

Storage And Accumulation Limitations.

—

~~(1) Storage Limit. As determined on a yearly basis, each registered facility shall transfer at least 75% of the amount of material accumulated that is diverted from the solid waste stream or processed for recycling. Each facility in operation on the effective date of these regulations shall demonstrate through sufficient documentation that it is in compliance with the 75% requirement for the year of the effective date of these regulations. Each new facility beginning operation after the effective date of these regulations shall meet this~~  
storageAccumulation Limitations. As determined on a yearly basis (January through December), each registered facility shall transfer at least 75% of the amount of recovered material by weight or volume of that material accumulated that is recycled or diverted from the solid waste stream or processed for recycling to a Recovered Materials Processing Center or End Use Facility. Each new facility beginning operation on the effective date of these regulations shall meet this accumulation limit for that portion of the year in which the facility begins receiving materials for recycling or processing. The following conditions must be met in order to satisfy the 75% accumulation limitation requirement:

—

(a) Speculative accumulation of recyclable materials is not allowed.

—

1. A material is not speculatively accumulated if the person accumulating it can show that the material is potentially recyclable, has a feasible means of being recycled and adheres to the following requirements:

—  
i. During the calendar year (commencing on January 1) the amount of material that is recycled, recovered, or transferred to a different site for further recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the year.

—  
ii. Recovered materials are processed and sorted in accordance with 335-13-3-.03 and placed in a storage unit with a label indicating the first date that the material began to accumulate.

—  
iii. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method.

—  
iv. In calculating the percentage of recovered material, the 75 percent requirement is applied to each recovered material of the same type that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way).

—  
v. Any remaining material at the end of the calendar year, beyond that calculated in the 75 percent requirement as described in 335-13-3-.04(1)(a)1.iv., must be counted as received material in the following calendar year.

—  
vi. The accumulated volume of unprocessed recyclable material shall not exceed the amount which can be processed within a 6-month period.

—  
vii. All unprocessed recyclable material must be managed as items of value (e.g. prevent deterioration and breakdown, protection from the elements, runoff prevention, prevent wind dispersion, and fire protection).

—

viii. Upon processing, non-recyclable materials shall be disposed in accordance with 335-13.

—

ix. Recovered materials must be managed as items of value as outlined in 335-13-3-.04(1)(a)1.vii.

—

(b) Recordkeeping. Each facility shall maintain records of all materials received by and shipped from the facility regardless of material type, origin or destination, in accordance with the requirements of ~~Rule~~ 335-13-3-.04.

~~(b)~~ \_

1. Such records shall be available for inspection by the Department. Upon written notice, copies of these records shall be submitted to the Department.

—

(c) For the purposes of this ~~section~~rule the term “year” shall be the calendar year commencing on January 1 and ending on December 31.

—

(d) Each facility in operation on the effective date of these regulations shall demonstrate, through certification of annual reports utilizing the language from 335-13-3-.04(2)(d), that it is in compliance with the 75% requirement for the year of the effective date of these regulations.

—

(e) Extensions, not to exceed one year, may be granted by the Department for just cause (e.g. End User Facility shutdown, change in market conditions, etc.).

—

(2) A registered facility may request a temporary exemption from this requirement, ~~by submitting such a written request to the Department within forty-five (45) days after~~ by submitting a written request to the Department at least fifteen (15) days before the accumulation time-frame has been exceeded. Such request shall contain the following:



—  
(a) Material(s) type, quantity, and current method of segregation and storage.

—  
(b) Efforts to move material to an end-use destination including names and phone numbers of end-user contacts.

—  
(c) Estimate of additional quantities of material(s) type to be accepted.

—  
(d) The following statement, certified by the responsible official or representative:

—  
"I hereby certify as an owner, operator, representative, or responsible official ~~or responsible person~~ associated with the named facility, that the information supplied and statements made in this request are true and accurate, and that failure to comply with the 75% requirement is not due to speculative accumulation or in violation of other requirements of this Chapter. Furthermore, I understand that continued non-compliance with the 75% requirement may result in the facility registration being revoked, and/or enforcement action by the Department, including substantial civil penalties being imposed."

—  
(3) Such exemption shall be valid for a period determined by the Department, but not to exceed one year. ~~Extensions of the exemption beyond one year are subject to review and approval by the Department and must be requested in writing by the registered facility in accordance with the requirements of Rule 335-13-3-04(2).~~

—  
(4) Continued non-compliance with the storage time limit requirement may result in the revocation of the facility registration and/or enforcement action by the Department which may include civil penalties and/or a requirement for disposal of the accumulated materials in accordance with ~~this~~ Chapter 335-13-3.

—

(5) Records must be maintained ~~in a sufficient manner as to be used to verify facility compliance with the seventy-five percent (75%) rate required by this section~~at the facility and available for inspection as required by 335-13-3-.05(4) and reporting requirements must be met so that the Department can verify facility compliance with the seventy-five percent (75%) rate required by 335-13-3-.04.

**Author:** Phillip D. Davis, M. Gavin Adams. Jason Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §§22-27-02, 22-27-12, 22-27-15, 22-27-16.

**History: Repealed:** June 21, 1996; effective July 26, 1996. **New**

**Rule:** Filed June 28, 2010; effective August 2, 2010. **Amended:**  
Published ; effective .

### **335-13-3-.05            Recordkeeping And Reporting Requirements.**

—

(1) Except as provided in Rule 335-13-3-.05(3), no materials may be accepted by a facility registered ~~under this Chapter in accordance with 335-13-3~~ from any person or entity without the completion of a receipt documenting the material acceptance. A receipt must be completed for each shipment of materials received by the registered facility. A copy of each receipt shall be provided to the person or entity delivering the materials, and a copy maintained by the registered facility. Copies of all receipts maintained by the facility shall be available for inspection by the Department, and shall be utilized to generate ~~semi-annual reports as required by this section~~annual reports as required by this rule. All receipts must contain the following information:

—

(a) Description of materials received listed by material type.

—

(b) Weight of each material type in 335-13-3-.04(1)(b) above, expressed in tons.

—

(2) A receipt shall be completed for the total shipment of materials where:

—  
(a) Materials are delivered by a contractual waste or recycling hauler.

—  
(b) Materials are delivered where collected from drop-off boxes or publicly accessible drop-off centers.

—  
(c) Materials are delivered where collected during public recycling events.

—  
(3) The requirement for a receipt shall not apply to recyclable materials accepted in the following cases:

—  
(a) Materials delivered by a person in quantities as can be expected from normal individual household generation.

—  
(b) Materials delivered to an unmanned drop-off or collection box location where no personnel would be available to complete a receipt.

—  
(4) Records required in accordance with 335-13-3 shall be maintained at the facility for a minimum of three (3) years and made available for inspection by ADEM personnel upon request.

—  
(5) Each facility subject to 335-13 shall prepare and submit an annual report in a form designated by the Department. The report shall include~~Each facility subject to this Chapter shall prepare semi-annual reports of~~ all recyclable materials or recovered materials transferred, sold, or conveyed out of state, to further processors, to materials brokers in the State of Alabama, or to end-use manufacturers in Alabama ~~who use the materials as a fuel, raw material, or as a substitution for a commercial product.~~ These reports shall indicate the following:

(a) A record of the amounts of each material accepted from the initial generators by type and quantity, expressed in tons. Owners/operators maintaining this information in cubic yards shall convert and indicate the conversion methodology to tons for the purposes of the ~~semi~~-annual report.

—

(b) The amount of each material type expressed in tons transported to further processors or end-~~market users~~. ~~End-Market users~~ use facility/end-use manufacturing facility. End-Use facilities which recycle or re-process their own materials generated on-site or materials received from generators in quantities as can be expected from normal individual household generation, shall report the amounts of each material type recycled. Owners/operators maintaining this information in cubic yards shall convert and indicate the conversion methodology to tons for the purposes of the ~~semi~~-annual report.

—

(c) The type and quantity of material, expressed in tons, to include residues or non-recyclable materials removed from the facility by a solid waste collector/hauler and destined for disposal, and the name, address and telephone number of the hauler. Owners/operators maintaining the quantity information in cubic yards shall convert and indicate the conversion methodology to tons for the purposes of the ~~semi~~-annual report.

~~(5)~~ \_

(d) A statement of compliance that the facility complied with the requirements of 335-13-3-.04.

—

(6) Each facility registered pursuant to this Chapter shall submit a semi-annual report containing the totals and monthly summaries of the information provided in subparagraphs (a), (b), and (c) of Rule 335-13-3-.05(4) above to the Department on or before February 15 and August 15 of each year for the preceding six month periods of July 1—December 31 and January 1—June 30, respectively. Semi-annual reports must be signed rule shall submit an annual report containing the totals and monthly summaries of the information required in 335-13-3-.05(5) above to the Department between January 1 and February 15 with the previous calendar year's information. Annual reports must be certified by the responsible official or representative of the facility and shall include a statement that all materials accepted or generated by the facility which were not sent to an

end-user or reused on-site were properly disposed of in accordance with ~~this Division~~335-13.

~~(6)~~ \_

(7) Each facility exempt from registration in accordance with Rule 335-13-3-.02 ~~(3) shall submit a semi-annual report containing the applicable information as specified in subparagraphs (a) and (b) of Rule 335-13-3-.05~~ (4) (5) shall submit an annual report containing the applicable information as specified in 335-13-3-.05(5) above. These reports shall be submitted to the Department in accordance with the requirements of Rule 335-13-3-.05 ~~(5) (6)~~.

~~(7)~~ \_

(8) Information submitted by a facility may be considered confidential by the Department in accordance with the requirements of ~~Rule 335-1-1-.06, if requested by the facility in writing~~335-1-1-.06, upon a showing, in writing, satisfactory to the Director, that divulgence of records, reports, or information, or particular parts thereof (other than emission, effluent, manifest or compliance data) to which the Department has access, if made public, would divulge production of sales figures or methods, processes, or production unique to such person, or otherwise tend to affect adversely the competitive position of such person by revealing trade secrets. Information submitted to the Department which is requested to be held confidential in nature may be utilized by the Department in conjunction with other submitted data such that the information is not attributable to a specific facility. Such use may include the generation of Departmental reports or other summaries of a regional or statewide nature.

~~(8) Records required by this Chapter shall be maintained at the facility for a minimum of three (3) years, and made available for inspection by ADEM personnel upon request.~~ \_

**Author:** Phillip D. Davis, M. Gavin Adams. Jason Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of Ala. Alabama 1975, §§22-27-12, 22-27-15, 22-27-16.

**History: Repealed:** June 21, 1996; effective July 26, 1996. **New**

**Rule:** Filed June 28, 2010; effective August 2, 2010. Amended:  
Published ; effective .

**335-13-3-.06            Inspection Of Facilities.**

—

(1) A facility registered under this ~~Chapter~~rule shall, upon request of a duly authorized representative of the Department, permit the representative to enter, at all reasonable times, property and buildings to inspect facility operations, records and equipment, and to conduct monitoring or sampling activities as necessary to evaluate the facility's compliance with the requirements of ~~this Chapter and the ADEM Administrative Code~~these rules.

—

(2) The registrant, owner or operator shall assure that all records and documentation as may be required to determine compliance with ~~this Chapter~~these rules are available for inspection and/or audit upon request by the Department.

—

(3) The Department may require the registrant to prepare materials for inspection. Such preparation may include, but not be limited to the disassembly of bales, or spreading of segregated materials to facilitate inspection.

—

**Author:** Phillip D. Davis, M. Gavin Adams. Jason Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §§22-27-12, 22-27-15, 22-27-16.

**History: Repealed:** June 21, 1996; effective July 26, 1996. **New**

**Rule:** Filed June 28, 2010; effective August 2, 2010. Amended:  
Published ; effective .

### **335-13-3-.07            Closure Of Facilities.**

—

(1) No person shall close a registered facility without submitting ~~written~~ notification to the Department at least thirty (30) days in advance of the closure. Such ~~written~~ notification shall contain the following.

—

(a) Name, address and telephone number of the facility and of the location of the owner, operator, or responsible person following facility closure.

—

(b) Reason for closure to include factor(s) leading to the closure decision.

—

(c) ~~Written plans~~Plans for notifying the facility's customers of the closure. Such notification to customers shall include the placement of signs of suitable size at the entrance to the facility indicating the closure date of the facility and/or last date materials to be accepted, if different than the closing date. Such notification shall also include the location of the nearest available recycling and/or solid waste disposal facility.

—

(d) Plans and methods for the prevention of recyclable materials and other solid wastes to accumulate at the facility following closure, and the plans for disposition of such materials in compliance with applicable regulatory requirements.

—

(2) All solid waste and recyclable materials shall be properly removed from the facility prior to closure, potential nuisance conditions shall be addressed, and, if necessary, the site shall be stabilized to prevent migration of sediment off-site due to stormwater runoff.

**Author:** Phillip D. Davis, M. Gavin Adams. Jason Wilson. Blake B. Pruitt.

**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §§22-27-12, 22-27-15, 22-27-16.

**History: Repealed:** June 21, 1996; effective July 26, 1996. **New**

**Rule:** Filed June 28, 2010; effective August 2, 2010. Amended:  
Published ; effective .

### 335-13-3-.08

### Variances.

(1) Variances. The Department may grant individual variances from the specific provisions in 335-13-3 based upon the procedures described in 335-13-3-.08 whenever it is found by the Department, upon presentation of adequate proof, that non-compliance with the requirements of 335-13-3 will not threaten the public health or unreasonably create environmental pollution. Variances per se are not favored by the Department.

—

(2) Applicability. Any person may request a variance from specific provisions of 335-13-3 by filing a Petition for Variance with the Department.

(3) Variance petition requirements that shall be included in the petition:

—

(a) A clear and complete statement of the precise extent of the relief sought including specific identification of the particular provisions of the regulations from which the variance is sought.

—

(b) An assessment, with supporting factual information, of the impact that the variance will impose on public health and the environment in the affected area.

—

(c) Any additional information requested by the Department as necessary to evaluate the variance request.

—

(d) A concise factual statement of the reasons the petitioner believes that non-compliance with the particular provisions listed in 335-13-3 will not threaten the public health or unreasonably create environmental pollution.

(e) Applicable fees in accordance with 335-1.

—

(4) Departmental Action on Petition for Variance. On receipt of a Variance Petition, the Department will authorize one of the following actions:

—

(a) The petition may be dismissed if the Department determines that it is not adequate in accordance with the requirements of 335-13-3-.08.

(b) The Department may grant the variance as petitioned or by imposing such conditions in accordance with 335-13-3 requirements, including the establishment of schedules of compliance and monitoring requirements.



—  
(c) The Department may deny the petition. If such a denial is made, the Department shall notify the petitioner in writing the reasons for denial and outline the procedures for an appeal as described in 335-2-1.

—  
(5) Termination of Variance. Any variance granted by the Department may be terminated by the Department whenever the Department finds, after notice to the facility, that the petitioner is in violation of any requirement, condition, schedule, limitation or any other provision of the variance or that operation under the variance does not meet the minimum requirements established by the state and federal laws and regulations or is unreasonably threatening the public health.

**Author:** Jason Wilson. Blake B. Pruitt.

**Statutory Authority:** Code of Alabama 1975, §§22-27-12, 22-27-15, 22-27-16.

**History: New Rule:** Published \_\_\_\_\_ ; effective \_\_\_\_\_ .

**335-13-3-.09**

**State Agencies and Public School Systems.**

—  
(1) The Department shall assess the status of recycling efforts for solid waste generated by the operations of state agencies and public school systems. The Department shall evaluate existing programs and assist in development of necessary new programs for recycling to reduce the generation of solid waste by the state.

—  
(2) Each agency shall submit electronically a report annually (January through December) by March 1<sup>st</sup> to the Department on the implementation and results of its program. Reports shall be submitted on forms provided by the Department.

—  
(3) State agencies and public school systems are encouraged to coordinate their efforts to assure the maximum benefit of recycling efforts and to increase access to markets for recyclable materials. State agencies and public school systems may jointly enter into contracts with one another or third

parties for the management of recyclable materials as provided herein.

**Author:** Jason Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of Alabama 1975, §§22-22-B-3, 22-27-12, 22-27-15 and 22-27-16.

**History: New Rule:** Published \_\_\_\_\_ ; effective \_\_\_\_\_ .

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 335
Department or Agency: Alabama Department of Environmental Management Land Division - Solid Waste Program
Rule No.: 335-13-9-.02
Rule Title: State Solid Waste Management Plan
Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Jeffery W. Kitchens
Jeffery W. Kitchens

Date

Wednesday, April 17, 2024

REC'D & FILED
APR 17, 2024
LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION - SOLID  
WASTE PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management  
RULE NO. & TITLE: 335-13-9-.02 State Solid Waste Management Plan  
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Revisions to the ADEM Administrative Code rule 335-13-9-.02 are being proposed to update the language regarding the State Solid Waste Management Plan.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held at 1:30 p.m., June 20, 2024, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110. Attendance at the hearing is not necessary to present such data, views, arguments, or comments. All comments should be received by 5:00 p.m., June 20, 2024.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, June 20, 2024

CONTACT PERSON AT AGENCY:

Lynn T. Roper, 334-271-7728

*Jeffery W. Kitchens*

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Jeffery W. Kitchens

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

**335-13-9-.02            State Solid Waste Management Plan.**

Pursuant to Code of Ala. 1975, §22-27-45(4), the Alabama Solid Waste Management Plan, dated ~~May 2008~~April 2024, and included in Appendix A of these regulations, is hereby adopted to the extent allowed by law.

**Author:** Phillip D. Davis. Jason Wilson, Blake B. Pruitt

**Statutory Authority:** Code of Ala. 1975, §§22-22A-8(d); 22-27-40 et seq.

**History: New Rule:** Filed February 5, 2002; effective March 12, 2002. **Amended:** Filed August 26, 2008; effective; September 30, 2008. **Amended:** Published            ; effective            .

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 335
Department or Agency: Alabama Department of Environmental Management Land Division - Solid Waste Program
Rule No.: Chapter 335-13-10
Rule Title: Alabama Recycling Fund Grants Program
Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Jeffery W. Kitchens
Jeffery W. Kitchens

Date

Wednesday, April 17, 2024

REC'D & FILED
APR 17, 2024
LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION - SOLID  
WASTE PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

RULE NO. & TITLE: Chapter 335-13-10 Alabama Recycling Fund Grants  
Program

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Revisions to 335-13-10 are being proposed to clarify requirements for the Alabama Recycling Fund Grants Program.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held at 1:30 p.m., June 20, 2024, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110. Attendance at the hearing is not necessary to present such data, views, arguments, or comments. All comments should be received by 5:00 p.m., June 20, 2024.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, June 20, 2024

CONTACT PERSON AT AGENCY:

Lynn T. Roper, 334-271-7728

*Jeffery W. Kitchens*

---

Jeffery W. Kitchens

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION -  
SOLID WASTE PROGRAM  
ADMINISTRATIVE CODE

CHAPTER 335-13-10  
ALABAMA RECYCLING FUND GRANTS PROGRAM

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335-13-10-.01 Purpose.

This regulation is to establish the procedures for the disbursement of recycling grants to local governments, authorities, and nonprofit organizations for use in developing, implementing, and enhancing local recycling, reuse and waste minimization projects and programs.

**Author:** Phillip D. Davis

**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §§22-27-12, 22-27-17.

**History:** **New Rule:** Filed December 15, 2008; effective January 19, 2009. **Amended:** Published ; effective .

335-13-10-.02 Definitions.

When used in ~~this Chapter~~335-13-10, the following terms have the meaning given below:

—

(a) "Advance funds" means monies approved for known costs to the applicant within the grant period before the semi-annual report~~before the semi-annual report is due.~~

—



(b) "Authority" means any quasi-governmental agency, board, or authority created by agreement on behalf of one local government or between two or more local governments for solid waste management or recycling purposes.

—

(c) "Eligibility" means the standard or criteria by which a local government or applicant qualifies for grant funds, as determined by the Department. These standards shall include, but are not limited to, completeness of the grant application, plans for recycling, reuse and waste minimization projects, current status of recycling and waste minimization efforts underway within the applicant's jurisdiction, and consistency with local solid waste management planning.

—

(d) "Grant agreement" means the binding contract between the Department and the applicant.

—

(e) "Grant application" means the initial request form for a grant from the Department.

—

(f) "Grant limited equipment" means any property or equipment greater than \$5,000 cost that is purchased in whole or in part with grant funds and which must be used solely for recycling purposes per the grant agreement.

—

(g) "Grant period" means twelve months ~~from the time the grant agreement is properly executed by all parties~~ as outlined in the properly executed grant agreement.

~~(g)~~ \_

(h) "Local government" means any municipality, county, district or authority or any agency thereof which has responsibility for and the authority to assure the proper management of solid waste within its jurisdiction, including but not limited to, its collection, disposal, treatment or recycling.

~~(h)~~ \_

(i) "Nonprofit organization" means a corporation or association where no part of the income or profit of which is distributable to its members, directors or officers, and is operated pursuant to the requirements of Code of Alabama, 1975, §§10-3A-1 to 10-3A-225.

~~(i)~~\_

(j) "Official" or "officer" means either the principal executive officer or ranking elected official of a governmental body, authority, or non-profit organization.

~~(j)~~\_

(k) "Program" means the grant program established and administered by the Department under the authority of Code of Alabama, 1975, §22-27-17.

~~(k)~~\_

(l) "Temporary operating subsidy" means the use of grant funds for operational expenses of a solid waste reduction program or a recycling program, including personnel costs, training costs, rental of facilities, and other similar expenses approved by the Department.

**Author:** Phillip D. Davis. Jason Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §§22-27-12, 22-27-17.

**History:** **New Rule:** Filed December 15, 2008; effective January 19, 2009. **Amended:** Published \_\_\_\_\_ ; effective \_\_\_\_\_ .

335-13-10-.03

**Grant Application Requirements.**

(1) Requests for funding shall be submitted to the Department electronically on application forms specified by the Department.

—

(2) Applications for grants from the Program must be submitted electronically to the Department no later than March 1, or the next business day if March 1 falls on a weekend, of each year to be considered for funding from that fiscal year's Fund allocation.

—

(3) Applications received from local governments, authorities, or nonprofit organizations which have not completed their

obligations under all previously awarded funds may be denied by the Department.

—

(4) Applications from local governments, authorities, or nonprofit organizations which have not met their obligations under the terms of any previous grant agreements or accounted for any unused grant funds from a previous grant awarded under this rule during the previous 36 months shall be denied by the Department.

—

(5) All recycling projects included in an application must be consistent with the description of current or planned recycling programs included in the approved local solid waste management plan, which must include a focus on recycling in accordance with Code of Alabama 1989, § 22-27-47(b)(4), of the appropriate local jurisdiction. Jurisdictions without an approved local solid waste management plan or without language in an approved solid waste management plan consistent with the grant application may be awarded conditional approval of the grant application pending the Department's approval of a modification to an existing solid waste management plan or the approval of a new solid waste management plan for the jurisdiction.

—

(a) Where proposed recycling projects would not be consistent with the approved local plan, the application shall include measures to revise the local plan, as necessary. Such revisions must be completed prior to the Department's approval of disbursement of grant funds for the proposed recycling projects.

—

1. The costs associated with the revisions of local solid waste management plans as required by subparagraph (a) are eligible for inclusion in an application for grant funds.

—

2. Only grant funds associated with the costs of amending the local solid waste management plan may be disbursed prior to departmental approval of the revised local solid waste management plan. The balance of grant funds in the award shall be disbursed in accordance with Rule 335-13-10-.04 following final departmental approval of the revised local solid waste management plan.

—  
(b) Applications for proposed recycling projects that would be inconsistent with the recycling programs included in the existing local solid waste management plan or plans that do not include a proposal to amend the local plan(s) in accordance with subparagraph (a) shall be denied by the Department.

—  
(c) Any amendments to the local solid waste management plan necessary to comply with subparagraph (5) shall apply only to the jurisdiction proposing the modifications and not to any other local jurisdictions included under the local solid waste management plan.

—  
(6) Applicants may submit a proposal for a multi-year grant plan. This proposal should include details of the grant plan, including but not limited to, budgetary information, project costs, justifications, timelines and key milestones, and overall project goal(s). This proposal shall be submitted to the Department no later than September 1st for the upcoming grant cycle.

—  
(7) Any amendments or modifications to the grant agreement must be submitted by the listed responsible official and be approved by the Department in writing before becoming effective.

—  
**Author:** Phillip D. Davis. Jason Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §22-27-17(c) (1) et seq..

**History: New Rule:** Filed December 15, 2008; effective January 19, 2009. **Amended:** Published \_\_\_\_\_ ; effective \_\_\_\_\_.

#### **335-13-10-.04            Disbursement Of Funds.**

(1) Upon review and approval of the application, the Department shall determine the exact amount of the grant award and prepare a grant agreement.

—

(2) The grant agreement will be forwarded to the applicant to be signed by a local government official, authority official or officer of the nonprofit organization.

---

(3) The applicant may request advance funds through the application process; however, known needs must be documented before advance funds can be approved. Following approval by the Department, the advance funds will be forwarded to the applicant.

---

(4) Any local government, authority, or non-profit organization receiving grant funds will be reimbursed for actual expenses incurred from the implementation of the approved project or program. Each semi-annual report shall report on the status of the recycling project or program to be funded by the grant, and shall include information necessary for review by the Department for reimbursement of actual costs. Each report must be submitted fifteen (15) days from the end of the previous semester. Semesters shall run October 1st through March 31st, and April 1st through September 30th of each year.

---

(5) The Director, or his designee, may terminate a grant award in whole or in part and demand refund of grant funds when there is substantial non-compliance with the terms of the award or these rules, a determination made by the Department that the grant was obtained by fraudulent means, ~~found~~ [finding](#) that grant monies have been used for non-allowable costs, or a determination made by the Department that gross abuse or corrupt practices have been used in the administration of the grant project by the recipient.

---

(a) The Director, or his designee, shall give written notice to the recipient (via certified mail, return receipt requested) of its intent to terminate a Fund grant, in whole or in part, at least 30 days prior to the intended date of termination.

---

(b) The Director, or his designee, shall afford the grant recipient an opportunity for consultation prior to any termination. After such opportunity for consultation, the Department may, in writing (via certified mail, return receipt requested), terminate the Fund grant in whole or in part.

—  
(c) In event of such termination, the local government, authority, or non-profit organization shall be ineligible to make application for further participation in the grant program until the grantee complies with the terms of the grant award or these rules.

—  
(6) The amount of each grant awarded under this Chapter shall be at the sole discretion of the Director, or his designee; however no single grant award may exceed 20% of the total funds appropriated to the Alabama Recycling Fund during the previous fiscal year.

~~(a) For applications filed on or before March 1, 2009, no single grant award may exceed \$350,000.~~

~~(b)~~ These grant award limitations may be waived by the Director if the total amount of grant funds requested by eligible ~~applications~~applicants for a fiscal year does not exceed the funds appropriated to the Alabama Recycling Fund during the previous fiscal year, or if there are less than five total grant applications submitted to the Department.

—  
(7) Grant funds not awarded due to insufficient requests or applications, shall remain in the Alabama Recycling Fund and shall be available for award in future grant years.

—  
(8) Eligible grant applications will be divided into two categories for the purpose of awarding funds.

—  
(a) Category 1 applications shall be those applications submitted by a jurisdiction or jurisdictions for projects or programs which will serve geographic areas containing more than 40,000 households, based on data from the most recent U.S. census or equivalent.

—  
(b) Category 2 applications shall be those applications submitted by a jurisdiction or jurisdictions for projects or programs which

will serve geographic areas with fewer than 40,000 households, as determined by the most recent U.S. census or equivalent.

—

(c) The Department shall award no less than 60 % of the total grant funds available during a fiscal year to Category 1 applications. Provided, however, ~~for grant application years beginning on March 1, 2012, and thereafter,~~ at least 20 percent of the total grant funds must be awarded to Category 2 applications, if sufficient applications for one or both categories are received and approved by the Department. If sufficient applications are not received, the Director may, for a given grant year, adjust Category 1 and Category 2 thresholds to meet the no less than 60% and at least 20% of the total grant funds awarded.

**Author:** Phillip D. Davis. Jason Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of ~~Ala.~~Alabama.1975, §§22-27-12, 22-27-17.

**History: New Rule:** Filed December 15, 2008; effective January 19, 2009. **Amended:** Published ; effective .

### **335-13-10-.05            Grant Recordkeeping.**

(1) Each recipient of grant funds shall maintain accurate records of all expenditures associated with the recycling project funded by grants awarded pursuant to this Chapter, and shall assure that these records are available for inspection and/or audit upon request by the Department. Records shall be kept for a period of at least five years from the execution of the grant agreement.

(2) Recordkeeping information as required by the Department shall be listed in the grant agreement and shall be included with each semi-annual report submitted by the recipient. Such requirements established by the Department shall not be inconsistent with accounting and record-keeping methods such entities may be required to follow by the Alabama Department of Examiners of Public Accounts.

**Author:** Phillip D. Davis

**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §§22-27-12, 22-27-17.

**History: New Rule:** Filed December 15, 2008; effective January 19, 2009. **Amended:** Published ; effective .

335-13-10-.06

**Specific Recycling Grant Requirements.**

(1) Upon receipt and approval of the grant application, the Department will determine the amount of the grant award and prepare the grant agreement. Payment of grant awards will be contingent upon receipt and approval of the grant agreement.

—

(2) All local governments that choose to apply jointly shall enter into a binding agreement that designates a lead applicant and describes how the funds will be disbursed and used. Any agency or authority created by regional agreement for solid waste management or recycling purposes is eligible to apply for grants. The applicant shall submit all required documents on behalf of the local governments which are party to the agreement. Such applications and submittals shall be equivalent to those required if each local government were applying individually.

—

(3) Applicants shall provide the Department with information on any previous state or federal grants received for the purpose of solid waste management or recycling received by the jurisdiction during the previous 36 months. This information shall include the grant amount and the grant period, and other information or data as set forth in the application forms.

—

(4) Grant limited equipment must be properly maintained, managed, and used solely for recycling purposes for at least five (5) years from the date of the executed grant agreement.

—

(a) A local government, authority, or non-profit organization that ceases recycling activities, dissolves, or otherwise discontinues the use of grant limited equipment must notify the Department within thirty (30) days of the decision to cease, dissolve, or discontinue use after operations cease. A plan for appropriate dispensation of the grant limited equipment shall be submitted to the Department for review.

—



(b) Upon approval by the Director, or his designee, possession and ownership of grant limited equipment may be transferred, and not sold, to another local government, authority, or non-profit organization that meets the grant eligibility requirements listed in 335-13-10-.07 and serves the same or similar jurisdiction or jurisdictions covered by the proposed project or program of the original grant recipient that purchased the equipment.

—

(c) If grant limited equipment is sold within five (5) years of the executed grant agreement, such sale is subject to approval of the sale, including sale price, by the Department. All those funds generated from the sale must be returned to the Alabama Recycling Fund.

**Author:** Phillip D. Davis. Jason Wilson, Blake B. Pruitt.  
**Statutory Authority:** Code of Ala. Alabama 1975, §§22-27-12, 22-27-17.  
**History:** **New Rule:** Filed December 15, 2008; effective January 19, 2009. **Amended:** Published ; effective .

**335-13-10-.07                    Eligibility Requirements.**

(1) Existing and new recycling programs must be registered as determined by the Department.

—

(2) In order to be considered for a grant award under the Program, all applications shall include the following information for the area to be serviced under the terms of the requested grant:

—

(a) A description of the recycling or waste reduction/minimization project for which grant funds are requested, including any business or accounting plans for such projects;

;

(b) An estimate of the quantity, source and type of materials to be collected and recycled under the proposed project or program, including an explanation of the methods used to estimate this

quantity. The quantity shall include the volume of any out-of-state waste coming into the service area, but records of out-of-state waste volume shall be shown as a separate item on each semi-annual report;

—;

(c) A description of all existing or proposed recycling facilities, collection centers or other related service centers located within the jurisdiction or jurisdictions covered by the proposed project or program. If the application is for a multi-jurisdictional or regional program, a listing of recycling facilities and services operating within the boundaries of the responsible regional planning and development commission, including ownership, capacity, type of facility and service area of such facilities shall also be included;

—

(d) A statement that the grant is needed to achieve or surpass both the recycling or waste reduction/minimization efforts set forth in the approved local solid waste management plan and the purpose and goals of the Solid Wastes and Recyclable Materials Management Act of 2008. This statement shall include an explanation of how any existing private and public sector recycling programs and efforts will be incorporated into the proposed recycling project or program;

—

(e) A summary of all costs incurred, or to be incurred, in planning and implementing the recycling and waste reduction/minimization projects or programs;

—

(f) A copy of any regional agreement into which local governments have entered or will enter to accomplish the purposes of this rule;

—

(g) Any written contracts, written bids or written agreements which were entered into to develop and implement the proposed project or program;

—;

(h) The description of objectives that will be utilized to evaluate any education or public outreach component of the

proposed project or program, and an explanation of how the educational component will directly promote the use of existing or planned local recycling or waste reduction/minimization projects; and,

—

(i) A description of the methods to be used in evaluating the success of the recycling project or program. Progress reports and methods used to measure the progress shall be included in the semi-annual reports.

~~(2)~~ —

(3) The grant application shall include a recycling plan for the population of the area included in the application containing at least the following information:

—

(a) An explanation of the manner in which the proposed recycling project or program will be implemented;i

—i

(b) A timetable for the continued development and implementation of the proposed recycling project or program;

—

(c) The number of households (not population) to be covered by the proposed recycling project or program, as determined by the most recent U.S. census;i

—i

(d) The estimated percentage of the population participating in various types of recycling activities, including the estimated success rates, perceived reasons for the estimated success or failure, and the public and private sector recycling activities which are ongoing and most successful;i

—i

(e) The estimated percent reduction each year in solid waste disposed at solid waste disposal facilities as a result of any existing public and private recycling programs and an estimate of avoided disposal costs due to recycling that occurs as a result of the proposed recycling project or program;

—  
(f) An estimate of the number of households (not population) within the proposed program area served by solid waste collection services, an identification and description facilities where solid waste is being disposed or processed, and the anticipated effect of the proposed recycling project or program on such services and facilities;

—;

(g) A description and evaluation of recyclable materials that are being recycled including, but not limited to, glass, aluminum, steel, other metallic materials, office paper, yard waste, newsprint, corrugated paper/cardboard, plastics, white goods, and tires;

—

(h) The currently available and anticipated markets or uses for materials collected through the proposed recycling project or program;

—;

(i) The estimated costs of, and revenue from, operating and maintaining existing and proposed recycling projects or programs. This does not include specific costs and revenues from privately-operated recycling programs, but a summary of such costs and revenues shall be required if the applicant intends to provide funding for such programs;

—

(j) A description of any recycling activities planned or existing prior to the effective date of the grant regulations;

—;

(k) If the application includes programs managing "special wastes" it should include a description of how all special wastes, as defined in ~~this Division, including but not limited to industrial wastes, as defined in this Division~~335-13, including but not limited to industrial wastes, as defined in 335-13, will be managed.

**Author:** Phillip D. Davis. Jason Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §§22-27-12, 22-27-17.

**History:** **New Rule:** Filed December 15, 2008; effective January 19, 2009. **Amended:** Published ; effective .

**335-13-10-.08**

**Grant Award Criteria.**

Grants awarded under ~~this Chapter shall be made in accordance with the requirements of this part~~335-13-10 shall be made in accordance with the requirements of 335-13-10-.08 and shall be used to develop, implement, enhance and promote recycling and beneficial re-use projects and programs, as necessary to meet the requirements and objectives of the Solid Wastes and Recyclable Materials Management Act of 2008. Funding awarded for this purpose shall meet the following:

—

(a) Recycling grants awarded under the Program shall be used to provide funding for recycling program costs, which may include equipment purchases, facility construction and other such costs approved by the Department, as part of the grant agreement.

—

(b) Where approved by the Department, recycling grants may be used for temporary operating subsidies, provided that the applicant demonstrates that such a use is necessary for the success of the program, and shows how the subsidy will benefit the program. Within one (1) year of the award the applicant shall provide reasonable assurances that the program will be able to operate without a subsidy from this grant program.

—

(c) For recycling projects or programs involving multiple governmental jurisdictions within a region, recycling grants may also be used to assist local governments, authorities, or non-profit organizations in recycling paper, glass, plastic, construction and demolition debris, white goods, and metals and in composting and recycling organic materials, where such assistance is demonstrated to be necessary to make the regional effort viable. In such instances, the applicant shall provide a regional business plan for marketing recyclable materials.

—

(d) In conjunction with projects or activities described in subparagraphs (a), (b), and (c) of ~~Rule~~ 335-13-10-.08, recycling grants awarded under the Program may be used to promote recycling, solid waste volume reduction, waste minimization projects, and market development for recyclable materials,

provided that such efforts meet the requirements of [Rule 335-13-10-.07](#).

—

(e) All existing public and private recycling infrastructure shall be used to the greatest extent possible when planning and implementing the recycling programs funded by grants awarded under this Chapter. Grant funds shall not be used for duplicating existing private and public recycling programs unless the applicant satisfactorily demonstrates to the Department that such existing programs cannot be integrated into the proposed recycling or waste reduction projects or programs.

—

(f) Local governments or authorities may contract with private entities for the administrative operation of activities outlined in the grant application, with pre-approval from the Department.

—

(g) Grant applications for projects to be implemented within jurisdictions without existing recycling programs shall be given priority status for award under the Fund, as will applications submitted jointly by multiple jurisdictions or authorities on behalf of multiple jurisdictions.

**Author:** Phillip D. Davis. [Jason Wilson, Blake B. Pruitt.](#)

**Statutory Authority:** [Code of Ala. Alabama 1975, §§22-27-12, 22-27-17.](#)

**History:** **New Rule:** Filed December 15, 2008; effective January 19, 2009. **Amended:** [Published ; effective .](#)

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 335
Department or Agency: ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION - SOLID WASTE PROGRAM
Rule No.: 335-13-13-.02
Rule Title: Statewide Solid Waste Reduction Goal
Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Jeffery W. Kitchens
Jeffery W. Kitchens

Date

Wednesday, April 17, 2024 APR 17, 2024

REC'D & FILED

LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
LAND DIVISION - SOLID WASTE PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management  
RULE NO. & TITLE: 335-13-13-.02 Statewide Solid Waste Reduction Goal  
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Revisions to 335-13-13-.02 are being proposed to update the Statewide Solid Waste Reduction Goal and clarify language for general needed updates.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held at 1:30 p.m., June 20, 2024, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110. Attendance at the hearing is not necessary to present such data, views, arguments, or comments. All comments should be received by 5:00 p.m., June 20, 2024.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, June 20, 2024

CONTACT PERSON AT AGENCY:

Lynn T. Roper, 334-271-7728

*Jeffery W. Kitchens*

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Jeffery W. Kitchens

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)



**335-13-13-.02**

**Statewide Solid Waste Reduction Goal.**

There is hereby established a statewide solid waste reduction goal(G) of 40%. Attainment of this goal on an annual percentage basis shall be evaluated by comparing the statewide solid waste diversion rate of each year (G of 25%. Attainment of this goal (G) shall be determined on an annual percentage basis by use of year)to the statewide solid waste reduction goal (G):

[Added image:]

$$G \geq G_{year}$$

where G<sub>year</sub> is calculated by using the following formula:

~~G = (R/(R + W)) x 100~~

[Added image:]

$$G_{year} = \left( \frac{D}{D + W} \right) x 100\%$$

where the amount of annual waste ~~reduction (R) shall be calculated by aggregating all reported quantities of recovered materials in tons processed for recycling or beneficial reuse,~~ diverted from landfills (D) shall be calculated by the summation of all reported quantities of recovered materials in tons processed for recyclable materials (R), scrap tires (S), and beneficial use materials (B) which are processed and diverted from landfills to end-use markets:

[Added image:]

$$D = R + S + B$$

And divided by the summation of all annual waste diverted from landfills (D) and the total annual statewide solid waste generation accepted for disposal (W), which shall be determined in tons by data reported to the Department in accordance with 335-13-4-.22(2)(g) or 335-13-4-.23(2)(f) less any reported out of state waste accepted for disposal.

~~(a) By April 15, 2011 the Department shall calculate the statewide solid waste reduction percentage for the baseline calendar year of 2010. Annually, thereafter,~~ the Department shall replicate this calculation for the previous calendar year.

~~(b) The calculated annual statewide solid waste reduction percentage shall be posted on the departmental~~ diversion rate shall be posted on the Departmental internet website.

~~(c) The Department shall evaluate the percentage goal established in this rule on a triennial basis and, if warranted, shall revise the goal in order to promote increased recycling and beneficial reuse~~ diversion of recyclable materials, scrap tires, and beneficial use materials within the State.

(d) Any public or private entity involved in solid waste management within the State shall undertake measures to support the attainment of the statewide solid waste reduction goal, including but not limited to implementation of waste reduction and recycling programs through the approved local solid waste management plan, and the recordkeeping and reporting of the amounts of recycled or beneficially reused materials or scrap tires, as required under the State Solid Waste Management Plan established in ADEM Administrative Code 335-13-9.

**Author:** Phillip D. Davis. Jason J. Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of ~~Ala.~~Alabama 1975, §§22-27-12, 22-27-15, 22-27-16.

**History: New Rule:** Filed October 20, 2009; effective November 24, 2009. **Amended:** Published ; effective .

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 335
Department or Agency: Alabama Department of Environmental Management Land Division - Solid Waste Program
Rule No.: 335-13-9-Appendix A
Rule Title: Solid Waste Management Plan
Intended Action: New

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Jeffery W. Kitchens
Jeffery W. Kitchens

Date

Wednesday, April 17, 2024

REC'D & FILED
APR 17, 2024
LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION - SOLID  
WASTE PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management  
RULE NO. & TITLE: 335-13-9-Appendix A Solid Waste Management Plan  
INTENDED ACTION: New

SUBSTANCE OF PROPOSED ACTION:  
335-13-9 Appendix A is being proposed to outline the State Solid Waste Management Plan.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:  
Comments may be submitted in writing or orally at a public hearing to be held at 1:30 p.m., June 20, 2024, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110. Attendance at the hearing is not necessary to present such data, views, arguments, or comments. All comments should be received by 5:00 p.m., June 20, 2024.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:  
Thursday, June 20, 2024

CONTACT PERSON AT AGENCY:  
Lynn T. Roper, 334-271-7728

*Jeffery W. Kitchens*

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Jeffery W. Kitchens

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

**EXECUTIVE SUMMARY**

In accordance with the requirements of the Solid Wastes Disposal Act, Alabama Code § 22-27-45, (2006 Rplc. Vol.), the State Solid Waste Management Plan (Plan) is intended to provide information on the quantities of solid waste generated, disposed and recycled in the State, as well as provide an update regarding activities being implemented to manage these programs. Additionally, the Plan outlines a mechanism to be used in evaluating local solid waste management and recycling programs. The most recent information has been collected for the 2023 fiscal year.

**SECTION I  
BACKGROUND**

In 1989, the Alabama State Legislature enacted Alabama Law 89-824 to amend the Solid Wastes Disposal Act. This Act is codified at Code of Alabama 1975, §§22- 27-40 through 48.1 and required several actions to be completed to address solid waste management in the State. One of these actions required the Alabama Department of Environmental Management (ADEM) to prepare an Alabama Solid Waste Management Plan. The Law required that the Plan be initially prepared in two phases. Phase I was completed in November 1989, and served as a guide to local governments in the development of their local solid waste management plans. Phase II was completed in April 1991, and refined previously gathered solid waste management data, as well as identified a number of recommended statutory improvements to the State's management of solid waste. The law also established the criteria that should be included in any amendment or periodic revision to the Plan. In 2002, the Alabama Environmental Management Commission (EMC) adopted these original two phases of the Solid Waste Management Plan into the ADEM solid waste regulations.

Another requirement of the amendments to the Act was that each of the State's regional planning and development commissions were to develop a regional solid waste management needs assessment to assist local governments in the development of their own solid waste management plans. These regional solid waste needs assessments are required to be annually evaluated and revised. The initial assessments were completed in 1989.

Another major requirement of the amendments was to require local governments to prepare and adopt local solid waste management plans. Criteria were established under which the local solid

waste management plans were to be developed. Each county was responsible for developing a solid waste management plan for its incorporated and unincorporated areas. However, municipalities were given the option to submit to the jurisdiction of the county plan, or to develop their own plan for solid waste management within their boundary. Similarly, counties were authorized to establish regional solid waste authorities through the development of joint solid waste management plans. A total of 80 plans (67 counties and 13 municipalities) were developed across the State and were initially submitted to ADEM in November 1990.

Coincidental with the adoption of the State plan into the regulations in 2002, the EMC required that revised regional solid waste needs assessments be prepared by the regional planning and development commissions and councils as required by the Act. The EMC established a regulatory deadline of November 2003 for submittal of these revised assessments. The regulations also required the development of revised local solid waste management plans by the governing body of each county or municipality with responsibility for overseeing solid waste management. The deadline to submit the revised plans to the Department was September 2004.

A key component of Phase II of the State Solid Waste Plan was the list of recommendations for improvements in the State's solid waste management system. Throughout the 1990's, the Department made repeated efforts to obtain legislative approval of a number of the recommendations included in Phase II of the Plan. Despite ADEM's efforts, only a portion of one of the recommendations listed in Phase II of the Plan was passed by the Alabama Legislature at that time (see Section VI. Scrap Tire Management Program).

However, in 2008, during the regular session, the Alabama Legislature passed the "Solid Wastes and Recyclable Materials Management Act". This act provided a comprehensive, statewide program for the effective management of solid wastes and recyclable materials by implementing a number of recommendations of the previous version of the State Solid Waste Management Plan. Specifically, the act established the Solid Waste Fund which funds the costs associated with the remediation of unauthorized solid waste dumps; established the Alabama Recycling Fund which provides grants funds to local governments and non-profit organizations within Alabama to develop and enhance recycling and waste minimization programs; and has provided adequate funding resources to ADEM to carry out the duties related to the regulation of solid waste management and funds educational programs related to solid waste management and

recycling. These programs are funded by a \$1.00 per ton and \$0.25 per cubic yard statewide solid waste disposal fee.

With the 2008 passage of the Solid Wastes and Recoverable Materials Management Act (SWRMMA) and accompanying regulations, the Department was tasked with tracking, calculating and reporting progress towards a statewide 25% Solid Waste Reduction Goal. That goal was first exceeded in 2018 and again in 2022.

The data presented in this report represent the most current information on solid waste management that was made available to the State. The data and information presented in this report were obtained primarily from the approved local plans, which were the result of months of study by the counties and municipalities and their consultants. This report does not evaluate the accuracy and completeness of the local plans nor comment on the methods of future solid waste management selected by a county or municipality. The completeness of each plan is evaluated by ADEM as part of its review. During this most recent round of local plan development, additional municipalities made the decision to opt-in and opt-out of their respective county plans and to prepare their own solid waste management plans. As of March 2024, 68 local plans have been approved and several plans are expected to be received in the near future. To date, only nine counties and seven municipalities have not complied with the statutory and regulatory requirements to develop revised local solid waste plans. Further actions may be taken to bring these local governments into compliance.

The results of a statewide survey performed for the first phase of the Plan indicated Alabamians generated an average of 6.5 pounds of solid waste per person per day. The survey also indicated that approximately five percent of the State's waste stream was recycled. Later data supplied by local governments and compiled as part of the second phase of the Plan indicated that the average solid waste production per person per day is 6.3 pounds and that 2.6 percent of the waste stream was actually recycled. More recent data supplied to the Department during the period of 2022-2023 indicates the total average daily solid waste generation by Alabamians is 12.12 pounds per person per day combining municipal, construction/demolition and industrial waste streams, and that approximately 25 percent of the non-hazardous solid waste stream in the State is recycled or beneficially reused.

## **SECTION II STATUTORY AND REGULATORY UPDATE**

Since the 2008 plan update, the Department and Legislature have implemented several revisions to the Solid Waste Program regulations (Division 13 of the ADEM Administrative Code) to reflect changes in the law. These revisions were made to incorporate new statutory requirements into the existing program regulations and redefine existing definitions.

In 2011, the Alabama Legislature directed the Department to work with the Alabama Department of Public Health to evaluate and make recommendations regarding solid waste management in the State of Alabama. As a result of this directive, the Department partnered with Auburn University to conduct an independent assessment of Alabama's solid waste permitting process. In addition, the Department also tasked Auburn University to evaluate Alabama's overall solid waste management practices. Auburn University completed the Alabama Solid Waste Study in November of 2013. The Alabama Solid Waste Study was a two phased project: Phase 1 examined the solid waste landfill permitting process currently in place in Alabama, and Phase 2 studied strategies for future solid waste management in Alabama. Reports for Phase 1 and 2 were submitted to the Department on May 30, 2013, and November 3, 2013, respectively. The reports of the complete study can be found on the ADEM website at <http://www.adem.alabama.gov/programs/land/SolidWasteReport.cnt>.

In 2016, new regulations [335-13-4-.26(6) Disposal requirements for wood ash waste.] were written to allow for the alternative management for wood ash wastes which exhibit less than 50 percent of each of the toxicity characteristic (TC) levels for metals.

In 2018 and 2021, new regulations [335-13-15 Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments.] were written that applies to owners and operators of new and existing landfills and surface impoundments that dispose or otherwise engage in solid waste management of coal combustion residuals (CCR) generated from the combustion of coal at electric utilities and independent power producers and established a permitting program for these CCR units.

The Department also amended the solid waste permitting application regulations [335-13-5-.02 Permit Application] to reflect a modification in the local host government approval process due to a statutory change (2017 Regular Session-House Bill 328) to the Code of Alabama. This modification inevitably removed the Regional Planning Committee's review and approval from the process. Furthermore, new landfill applicants are required to petition the circuit court to review whether the local governing body complied with the public comment



requirements, their approval of the application was consistent with the local solid waste management plan, and whether consideration of the criteria for siting a landfill, provided in the application, was considered.

In 2019, the Department revised existing regulations concerning permit duration. Permits obtained in compliance with Division 13 shall be valid for the design life of the facility or as otherwise determined by the Department, but no longer than a period of ten years.

In 2020, an effort to significantly reduce a contributor of solid waste to Alabama's landfills, and to provide oversight to a previously unregulated agricultural practice, ADEM established regulations to require management practices for utilization of using municipal and industrial by-product materials as substitutes for commercial fertilizers and soil amendments: 335-13-16 Requirements for the Beneficial Use of By-Product Materials for the Purpose of Land Application, or the Beneficial Use Program.

In 2020, the Alabama Legislature revised the statute to clarify the meaning and intent of alternative cover materials for landfills. In 2021, the Department adopted new regulations that give the Department the discretion to evaluate and approve alternative cover material in compliance with federal law and the USEPA rules for guidance to achieve a level of performance equal to or greater than earthen cover material.

The future success of solid waste management in Alabama rests with the implementation of programs designed to minimize the State's dependence on disposal and to increase efforts to re-use and recycle. Current programs implemented by ADEM with the purpose of achieving these goals include the School Recycling Challenge, the Alabama Recycling Fund Grants Program, the Scrap Tire Marketing Grants Program, and statewide Education & Outreach regarding these programs. Other efforts include communicating with stakeholders and coordinating with communities and municipal governments to achieve reduction goals. To continue the long-term viability of this path, significant increase in resources must be devoted to the regulatory oversight of both permitted landfills and to the closure of illegal solid waste dumps. Public education and political support either for a fundamental paradigm shift to waste minimization and recycling, or of increased resources and significant revisions to the State's existing solid waste management system must be achieved if Alabama is to fully embrace the statutory purpose of the orderly management of solid

wastes resulting from decisions based on comprehensive planning at the local, regional and state level.

### **SECTION III WASTE GENERATION AND DISPOSAL VOLUME NEEDS**

An accurate accounting of the quantity of waste in Alabama's solid waste stream is a key element of producing a solid waste management plan that reflects the present and future needs of the State. The Act stipulates that each revision of the State Solid Waste Management Plan may include:

1. a revised estimate of the solid waste generation and disposal in the State for a 10-year period;
2. the total amounts of solid waste generated, recycled, and disposed of during the calendar year prior to the Plan's revision; and
3. the methods of solid waste disposal and recycling used during the prior calendar year.

In past waste accountings there were two basic methods utilized by counties and municipalities in quantifying their waste streams:

Method I: Evaluation of historical waste stream quantities landfilled, incinerated, and recycled. Projection of waste quantities by determining overall trends in the historical waste quantities; or

Method II: Evaluation of historical waste stream quantities landfilled, incinerated, and recycled. Projection of waste quantities by applying unit waste generation factors derived from historical waste stream quantities and population estimates.

Projections utilizing Method I were made through the assumption that future waste stream quantities will follow historical trends. This method did not acknowledge individual factors affecting waste quantities but considers the trend in overall changes in waste stream quantities over a period of time.

In Method II, total waste stream quantities were projected by modifying historical waste quantities through expected changes in population. A unit waste generation factor (i.e.,

pounds per capita per day) was calculated from historical data and was applied to the projected annual population. Pounds per capita per day rates varied greatly across the State, and the variations can be attributed to commercial activity, industrial activity, individual waste disposal practices, and the various data collection techniques utilized by local governments. Many local solid waste management plans utilized the national average of 5.3 pounds per capita per day. Appendices A-1 and A-2 contain the total annual solid waste generation and recycling projections for the State for a period of ten years, as well as actual information on waste disposal for 2022.

**SECTION IV  
DEVELOPMENT AND IMPLEMENTATION OF LOCAL SOLID WASTE  
MANAGEMENT PLANS**

Both the Act and the ADEM Solid Waste regulations require periodic updating of local solid waste management plans. Rulemaking undertaken in 2002 required submittal of the local plans to ADEM by September 2004. As of March 2024, 68 local plans have been approved and several plans are expected to be received in the near future. To date, only nine counties and seven municipalities have not complied with the statutory and regulatory requirements to develop revised local solid waste plans. A complete listing of the local solid waste management plans and their approval status as of March 2024 is included in Appendix A-3.

Despite continued efforts to encourage recycling and waste minimization, a number of local jurisdictions have not fully developed and implemented recycling programs as part of their local solid waste management strategy. In an effort to help assist those jurisdictions, revisions and amendments to solid waste management plans are eligible for funding through the Alabama Recycling Fund Grants Program.

**SECTION V  
SOLID WASTE REDUCTION AND RECYCLING EFFORTS**

The Solid Waste Disposal Act, SWRMMA and ADEM regulations provide for programs that emphasize waste minimization and recycling as key components of the State's overall solid waste management program. Pursuant to Code of Alabama §22-27-45, (2006 Rplc. Vol.), the State Solid Waste Management Plan developed in 1991 and adopted into the regulations in 2002 recommended a statewide municipal solid waste recycling goal of 25%. In 2020, the Environmental Protection Agency announced a National Recycling Goal to reach a recycling

rate of 50% by 2030. On a state level, Alabama met its Solid Waste Reduction Goal of 25% in 2018, 2019, 2020, 2021 and in 2022.

To further state government's commitment to recycling and waste reduction, under Alabama Law 90-564 §3(b), and subsequently Code of Alabama §22-22B-3(b), (2006 Rplc. Vol.), state agencies and public school systems are required to report recycling activities annually to ADEM. In 2008, the Materials Management Section of the Solid Waste Branch assumed the responsibility for tracking and reporting on this requirement. From 2019 to 2022 state agencies and school systems recycled 34,043.61 tons of material.

An additional component of the SWRMMA was the establishment of an Alabama Recycling Fund (ARF) and directive that ADEM develop a grants program which would assist local governments in the establishment or expansion of local recycling and waste minimization programs. Each year grant applications submitted by the March 1 deadline are reviewed and ranked for funding. Communities are designated as Category 1 (greater than 40,000 households), which must receive at least 60% of funds, or Category 2 (less than 40,000 households), which must receive at least 20% of grant funds. The remaining 20% can be awarded to either category, with no single award being for more than 20% of funds available. To date, approximately \$30,000,000 has been awarded to local governments in Alabama. The recycling grants assist Alabama communities in realizing increases in diversion from the disposal of recyclable commodities. As a requirement for funding, local governments may only request funding for items that are consistent with the stated goals and objectives of their local Solid Waste Management Plan. If not consistent however, the ARF funds and associated grants program may provide resources to update local plans for consistency. Once the updated plan has been approved, funding for other items requested may be obtained.

To foster a better understanding by the Department as to the waste reduction and recycling efforts of local solid waste management programs, the Plan established an annual reporting requirement for local solid waste management authorities. The reporting would simplify the recommendation for a comprehensive annual solid waste report that was made as part of Phase II of the State Solid Waste Management Plan. Tables for this streamlined reporting are included in Appendix A-4.

Furthermore, solid waste reduction efforts are realized through the implementation of new programs, such as the Beneficial Use program (335-13-16). The program instituted

the requirement for all Generators and Distributors of by-product materials destined for land application in the State to register in the program and abide by specific operational standards for storage and land application activities. This structure provided the Department with the ability to monitor and inspect by-product application sites to ensure compliance and the use of best management practices to protect human health and the environment. These inspections combined with annual reporting of by-product material use broadened the Departments' understanding of the Beneficial Use universe and has provided data-driven framework by which further regulatory needs could be known and incorporated in future rulemaking efforts.

Since 2020, approximately 1.1 million dry tons of by-product materials have been diverted from landfills for agricultural use and the universe of registered applicants has grown from 96 in 2020 to nearly 150 in 2022.

## **SECTION VI SCRAP TIRE MANAGEMENT PROGRAM**

In the 2003 session, the Alabama Legislature passed the Alabama Scrap Tire Environmental Quality Act. This legislation was developed as a result of a recommendation made in Phase II of the State Solid Waste Management Plan. This statute established the Scrap Tire Fund and required ADEM to develop and implement a statewide scrap tire management program by October 1, 2004. ADEM Administrative Code, Division 4, which contains the scrap tire regulations and requirements, became effective August 4, 2004.

With input from the Scrap Tire Commission, ADEM began the process of staffing the program, and developing information systems and supporting documents as well as standard operating procedures. In conjunction with trade and industry associations and the media, the Department initiated strategies to notify those subject to regulation. The regulatory program instituted the registration of Scrap Tire Receivers, which included separate classes for tire retailers and salvage and fleet operations. The permitting program initiated provided for permitting of scrap tire transporters, processors and end-users, and included provisions for the storage and transportation of scrap tires as well as other requirements. Manifesting shipments utilizing an approved form was a requirement to provide ADEM with information useable in determining proper reuse or disposal of scrap tires within the state. Procedures were also established by

regulation for the use of the Scrap Tire Fund for remediation of scrap tire sites in Alabama. Included were those for an approved contractor and site ranking systems.

Since initiated, the ADEM Scrap Tire Program has issued over 5,000 receiver registrations, 800 transporter and processor permits, and performed over 13,600 inspections of scrap tire facilities and scrap tire sites. In the area of site cleanup, cooperative efforts by property owners and ADEM enforcement actions have resulted in the removal of over 12.5 million scrap tires from illegal disposal sites, without expending Scrap Tire Fund resources. In 2019, the site ranking process identified the State's fourth largest illegal scrap tire site in Camp Hill, Tallapoosa County, Alabama. After completing the initial contractor approval, competitive bidding and contract award processes, scrap tire removal from the site began and within three months of the project's start date the remediation was completed, removing approximately 4,000 tons of scrap tire material. Of this amount, roughly 10% of the material was been beneficially reused.

Originally tasked to the Alabama Department of Economic and Community Affairs (ADECA), but transferred to ADEM in 2009, the ADEM Scrap Tire Marketing Program was established to demonstrate potential beneficial end uses of scrap tires. Included in the potential uses are scrap tire derived products and applications, and their suitability for substitution of new raw materials. Widespread use of scrap tire derived products has been limited by factors including developers, consumers, construction firms and others being unaware of the myriad of applications available. The program aims to bring awareness of the many uses of scrap tire derived products to these groups and others. The utilization of scrap tires in beneficial reuse applications continues to be demonstrated successfully in Alabama. The availability and durability of the material lends itself to a wide range of uses which, in many cases, also yields economic benefits. The program aims to support research and demonstration of end uses, which may overcome current misconceptions, and technical barriers, which will lead to more widespread implementation.

The Department utilizes an open grant process to select demonstration projects for reimbursement. Such projects are meant to encourage the use of tire derived products and applications. These projects have not only provided environmental and economic benefits in their application but have improved communities and public facilities across Alabama. To date, the program has provided over \$12.3 million

for the implementation of Scrap Tire Marketing projects in the State. Please see the list below of several major scrap tire marketing projects funded by ADEM:

- \* Lake Guntersville & Desoto State Parks - Recycled Tire Rubber Modified Asphalt Project (~5 miles)
- \* Tuscaloosa County Park & Recreation Authority - Muny Sokol Park - Recycled tire surfacing for an All-Inclusive Playground Project
- \* Coffee County Rubber Modified Asphalt Project (~1.85 miles)
- \* SSAB Alabama, Inc. - Injection Carbon Optimization Project
- \* Numerous recycled tire material mulch projects primarily for playgrounds and septic drainage fields
- \* Numerous recycled tire material bonded mulch projects primarily for walking trails
- \* McClellan Development Authority - Lake Yahou - Recycled Tire Rubber Modified Asphalt Project (~1.25 mile)
- \* Joe Wheeler State Park - Recycled Tire Rubber Modified Asphalt Project (~6.75 mile)
- \* St. Clair County - Recycled Tire Rubber Modified Asphalt Project (~2.91 mile)

## **SECTION VII CONCLUSIONS**

In summary, the Department continues to make a concerted effort towards continually exceeding the Solid Waste Reduction Goal. The Department recognizes that increasing reduction and recycling in Alabama requires a multi-faceted approach. Informing local governments and municipalities of their eligibility for Alabama Recycling Fund Grants has led to an increase in grant applications. The Department's implementation of an annual Grant Workshop has improved the quality of these applications. Continued involvement in education and outreach opportunities helps communicate the importance of recycling through personal contact with locals and the public. The School Recycling Challenge has expanded by targeting more schools and including a more in-depth educational component. The Department continues to maintain a positive relationship with stakeholders and communities by keeping them informed and involved in waste reduction and recycling efforts.

The Scrap Tire Marketing Program continues to grow. In line with the multi-faceted approach, the Scrap Tire Marketing component was added to the Alabama Recycling Fund Grant's Scope of Services. By offering additional funding to address scrap tire's, it is the Department's intent to help communities boost their reduction efforts and bring awareness to the Scrap Tire Marketing Fund.

The implementation of the Department's new permitting system, AEPACS (Alabama Environmental Permitting and Compliance System), has made permitting and compliance more streamlined. The increased efficiency benefits the Department and the external users. It allows both users to easily navigate facility information and monitor schedules for permits, payments and applications. As the benefits of the system continue to be realized, the expectation is to see an increase in data collection. Efficient and increased data collection is an integral piece of increasing reduction and recycling in Alabama.

**APPENDIX A-1  
10-YEAR SOLID WASTE GENERATION AND RECYCLING PROJECTIONS**

Year <sup>a</sup>	Population <sup>b</sup> (persons)	Diverted Wastes <sup>c</sup> (tons)	Landfilled Wastes <sup>d</sup> (tons)	Total Waste Generation <sup>e</sup> (tons)	Total Waste Generation <sup>e</sup> (lbs/person/ day)	Solid Waste Diversion Rate <sup>g</sup>
2022	5,096,708	2,884,967	8,391,829	11,276,796	12.12	25.58%
2023 <sup>h</sup>	5,125,547	(2,409,721)	(8,499,435)	(10,909,156)	(11.65)	(22.09%)
2023 <sup>i</sup>	(same)	(3,134,006)	(8,206,599)	(11,340,605)	12.12	(27.64%)
2024	5,154,387	3,385,663	8,018,751	11,404,414	12.12	29.69%
2025	5,183,305	3,639,995	7,828,403	11,468,398	12.12	31.74%
2026	5,212,144	3,896,894	7,635,313	11,532,207	12.12	33.79%
2027	5,240,984	4,156,412	7,439,605	11,596,016	12.12	35.84%
2028	5,269,823	4,418,548	7,241,277	11,659,825	12.12	37.90%
2029	5,298,742	4,683,373	7,040,436	11,723,809	12.12	39.95%
2030	5,327,581	4,950,750	6,836,868	11,787,618	12.12	42.00%
2031	5,356,420	5,220,746	6,630,681	11,851,427	12.12	44.05%
2032	5,385,260	5,493,361	6,421,875	11,915,236	12.12	46.10%

<sup>a</sup>2022 data (except population) are reported numbers; 2023 data are incomplete as of Monday, March 11, 2024, therefore 2023 projections are provided in addition to those reported, with Statewide Solid Waste Reduction Goal set at 25% (see 335-13-13-.02 prior to expected regulatory changes); 2024-2032 data are *projected* as described below.

<sup>b</sup>Population projected via linear regression on US Census data for Alabama (2000, 2010, 2020;  $R^2 = 0.9841$ ;  $\mu = 4.75 \times 10^6$  persons;  $\sigma = 2.90 \times 10^5$  persons)

<sup>c</sup>Diverted wastes = summation of volumes reported across recycling, scrap tire, and beneficial-use programs; Note: Diversion prior to 2023 was calculated by reported materials received at recycling facilities. Updated reporting in 2023 and after allows the calculation to use reported materials that are sent to end-use manufacturers (i.e., truly diverted); Diverted wastes are projected at a set rate<sup>a,g</sup>



<sup>d</sup>2022, 2023 landfilled wastes are in-state volumes reported (MSW, C&D, & ILF); 2023(projected)-2032 landfilled wastes projection assumes static annual diversion rate<sup>g</sup>

<sup>e</sup>2022, 2023<sup>(incomplete)</sup> Total waste generation = summation of reported landfilled and diverted wastes; 2023<sup>(projected)</sup>-2032 total waste generation projected by applying 2022 per capita waste generation rate to population projections over the same time period.

<sup>f</sup>Per capita waste generation rate = (([Projected Waste Generation]x2000lbs)/[Projected Population])/365.25days

<sup>g</sup>2022, 2023 Solid Waste Diversion Rate = (Projected Diverted Wastes)/(Projected Total Waste Generation)x100%; Annual increase in diversion rate for 2023<sup>(projected)</sup>-2031 projections is based on an average percentage increase from 2012-2022 of 2.05%.

<sup>h</sup>incomplete

<sup>i</sup>projected

**APPENDIX A-2**  
**SOLID WASTE DISPOSAL IN ALABAMA<sup>1</sup>**

<u>Source</u>	<u>2020</u> <u>(tons)</u>	<u>2021</u> <u>(tons)</u>	<u>2022</u> <u>(tons)</u>	<u>2023</u> <u>(tons)<sup>2</sup></u>
Municipal Solid Waste Disposal	6,159,254	6,071,849	6,430,234	6,726,817
Industrial Solid Waste	1,526,132	1,633,253	1,397,715	1,304,631
Construction and Demolition Waste	1,706,283	1,769,871	1,907,073	1,793,455
Total Waste Disposal	9,391,669	9,474,973	9,735,022	9,824,903

<sup>1</sup>Based on in-state and out-of-state quantities reported to the Alabama Department of Environmental Management

<sup>2</sup>2023 reports as of Friday, March 1, 2024

**APPENDIX A-3**  
**APPROVED LOCAL SOLID WASTE MANAGEMENT PLANS\***

Autauga County	Jackson County
Baldwin County	Jefferson County
Barbour County	Lamar County
Bibb County	Lauderdale County
City of Birmingham	Lawrence County
Blount County	Lee/East Alabama Regional SWDA
Bullock County	Limestone County
Butler County	Macon County
Calhoun County	Madison County
Chambers County	Marengo County
Cherokee County	Marion County
Chilton County	Marshall County
Choctaw County	City of Mobile
Clay County	Mobile County
Coffee County	Monroe County
Colbert County	Montgomery County
Conecuh County	Perry
Covington County	Pickens
Crenshaw County	Pike
Cullman County	Randolph
Dale County	City of Red Bay
Dallas County	Russell/East Alabama Regional SWDA
DeKalb County	Phenix City
City of Dothan	City of Selma
Escambia County	Shelby County
Fayette County	St. Clair County
City of Florence	Sumter County
Franklin County	Town of Sylvan Springs
City of Ft. Payne	Tallapoosa County
Geneva County	Tuscaloosa County
Green County	City of Valley
Hale County	Washington County
Henry County	Wilcox County
Houston County	Winston County

**LOCAL PLANS NOT SUBMITTED FOR ADEM REVIEW (expired)\***

City of Alex City	City of Huntsville
City of Brundidge	Lowndes County
Clarke County	City of Montgomery
Cleburne County	Morgan County
Coosa County	City of Scottsboro
Elmore County	Talladega County
Etowah County	City of Troy
City of Heflin	Walker County

\*Status as of March 2024

**APPENDIX A-4  
RECYCLING REPORTING FOR STATE GOVERNMENT AND EDUCATION  
DEPARTMENTS**

<b>Year</b>	<b>Total Reports</b>	<b>Total Volume (tons)</b>	<b>Tons per Report</b>
2016	59	7,009.03	118.80
2017	40	17,614.15	440.35
2018	56	8,195.37	146.35
2019	38	5,602.98	147.45
2020	45	8,154.66	181.21
2021	54	11,518.39	213.30
2022	26	8,767.58	337.21

**RECYCLING PROJECTION RANGES FOR STATE GOVERNMENT AND EDUCATIONAL DEPARTMENTS**

<b>Year</b>	<b>Reports Projected Range<sup>1</sup></b>	<b>Volume Projected Range<sup>2</sup></b>	<b>Avg. Tons per Report Projected<sup>3</sup></b>
2023 <sup>4</sup>	22 - 45	4,572 - 12,544	253.84
2024	19 - 43	4,323 - 12,296	269.91
2025	16 - 40	4,075 - 12,047	289.37
2026	13 - 37	3,826 - 11,799	313.40
2027	10 - 34	3,578 - 11,550	343.82
2028	7 - 31	3,330 - 11,302	383.59
2029	4 - 28	3,081 - 11,053	437.79
2030	1 - 25	2,833 - 10,805	516.02

<sup>1</sup>Reports projected range = (Average of Total Reports 2016-2022) ± (Standard deviation of Total Reports 2016-2022)

<sup>2</sup>Volume Projected Range = (Average of Total Volume 2016-2022) ± (Standard deviation of Total Volume 2016-2022)

<sup>3</sup>Avg. Tons per Report Projected = (Average of Total Reports 2016-2022)/(Average of Total Volume 2016-2022)

<sup>4</sup>2023 reports are still coming in at the time of these calculations. As of Monday, March 11, 2024: No. of Reports = 40; Total Volume Reported (tons) = 10,184; Tons per Report = 254.59

**APPENDIX A-5  
ALABAMA RECYCLING FUND GRANTS PROGRAM**

<b>Fiscal Year</b>	<b>No. of Grants</b>	<b>Total Amount Awarded</b>
2010	8	\$1,162,052.62
2011	13	\$1,654,106.12
2012	20	\$2,000,000.51
2013	15	\$2,009,006.36
2014	18	\$2,363,640.18
2015	16	\$1,899,997.31
2016	22	\$1,829,372.46
2017	19	\$1,252,968.35
2018	13	\$1,600,000.67
2019	13	\$1,756,592.35
2020	19	\$1,623,556.32
2021	16	\$1,478,324.22
2022	16	\$1,700,000.00
2023	43	\$3,766,907.87
<b>Total</b>	<b>251</b>	<b>\$26,096,525.33</b>

**APPENDIX A-6  
SCRAP TIRE MARKETING FUND GRANTS PROGRAM**

<b>Fiscal Year</b>	<b>No. of Grants</b>	<b>Total Amount Awarded</b>
2010	1	\$62,013.00
2011	42	\$359,936.00
2012	18	\$6,158,797.00
2013	5	\$71,428.00
2014	4	\$420,069.00
2015	4	\$290,597.00
2016	2	\$31,818.00
2017	2	\$461,853.00
2018	4	\$237,565.00
2019	9	\$242,768.00
2020	2	\$301,541.00
2021	5	\$896,370.00
2022	10	\$634,595.00
2023	13	\$2,090,266.10
<b>Total</b>	<b>121</b>	<b>\$12,259,616.10</b>

**Author:** Jason Wilson, Blake B. Pruitt.

**Statutory Authority:** Code of Alabama 1975 §§22-22A-8(d); 227-27-40 et seq.

**History: New Rule:** Published \_\_\_\_\_; effective \_\_\_\_\_.