

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

LAND DIVISION - SOLID WASTE PROGRAM

DIVISION 13

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CITE AS

ADEM Admin. Code r. 335-13-x-xx

REVISED EFFECTIVE: April 8, 2016

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

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**CHAPTER 335-13-2
COLLECTION AND TRANSPORTATION**

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335-13-2-.01 Collection and Transportation. Pursuant to the provisions of Code of Alabama 1975, §22-22A-4(i), regulations addressing the collection and transportation of solid waste remain within the function of the State Health Department pursuant to Code of Alabama 1975, §§ 22-22A-5 and 22-22A-8.

Author: Russell A. Kelly.

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, and 22-27-7.

History: November 18, 1981.

Amended: July 21, 1988; October 2, 1990; July 26, 1996.

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**CHAPTER 335-13-3
PROCESSING AND RECYCLING**

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335-13-3-.01 Purpose and Applicability. 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. These regulations further establish the minimum reporting and recordkeeping requirements necessary for subject facilities. Subject facilities 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. 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.

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

History: August 3, 2010.

335-13-3-.02 Facility Registration.

(1) No person may receive, store, process or transfer recyclable material without being properly registered with the Department, except as described in rule 335-13-3-.02(3). 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 facility and shall be subject to enforcement action in accordance with this division.

(2) The owner or operator 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 to 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, 2010, whichever is later.

(a) Each 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 listing of the types of material or materials to be received, stored, processed or transferred by the facility in a manner to be specified by the Department.

2. 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 business confidential by the registrant.

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

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

5. 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. 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 receipt of recyclable materials to the point of transfer to end-users.

(iv) 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.

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

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

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

(ix) 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 regulations.

(c) If a materials recovery facility is found to be in significant noncompliance with the requirements of this division, 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 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. 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 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) 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.

(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.
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) Certification. All applications, reports, requests for variances or exemption shall be signed by a responsible official or 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 by a responsible official or 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."

Author: Phillip D. Davis, M. Gavin Adams.

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

History: August 3, 2010.

335-13-3-.03 Facility Design and Operation.

(1) Facility Design and Operation. Registered Materials Recovery and Recovered Materials Processing Facilities shall be designed and operated according to this section 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 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 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.

(b) A facility regulated under this chapter 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. Storage of materials shall be in a manner to prevent migration of materials off-site due to stormwater runoff, wind or track-out by vehicles entering or leaving the facility site.

(a) 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) 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 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 from 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 or owner/operator if different than the registrant contact, the types of materials accepted by the facility, 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 shall inspect the facility at least weekly. Such inspections shall be documented in an inspection log by 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 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 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.

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

History: August 3, 2010.

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 storage limit for that portion of the year in which the facility begins receiving materials for recycling or processing.

(a) 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) 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 the term "year" shall be the calendar year commencing on January 1 and ending on December 31.

(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 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 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.

(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.

Author: Phillip D. Davis, M. Gavin Adams.

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

History: August 3, 2010.

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 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. 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) 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 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 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) 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 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.

(6) 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) above. These reports shall be submitted to the Department in accordance with the requirements of rule 335-13-3-.05(5).

(7) 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. 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.

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

History: August 3, 2010.

335-13-3-.06 Inspection of Facilities.

(1) A facility registered under this chapter 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.

(2) The registrant, owner or operator shall assure that all records and documentation as may be required to determine compliance with this chapter 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.

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

History: August 3, 2010.

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 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.

335-13-3-.07

Author: Phillip D. Davis, M. Gavin Adams.

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

History: August 3, 2010.

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

**CHAPTER 335-13-6
INSPECTION OF FACILITIES**

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335-13-6-.01 Inspection of Solid Waste Disposal Facilities

335-13-6-.01 Inspection of Solid Waste Disposal Facilities.

(1) General.

(a) The Department shall make periodic evaluations of all solid waste disposal facilities. The evaluations shall be unannounced, and a written report shall be forwarded to the persons holding the disposal permit. The report shall specify the items not in compliance and shall outline measures for corrections and dates for compliance.

(b) The Department may require the permittee to prepare waste for inspection. Such preparation may include but not be limited to the disassembly of bales, or spreading of confined waste to facilitate inspection.

(2) Access. Any permittee, owner or operator of a solid waste disposal facility shall upon request of a duly authorized representative of the Department, permit the representative to enter, at all reasonable times, property and buildings relating to past, present and future management of solid and medical waste and allow the representative to inspect facilities and equipment and to conduct monitoring and sampling activities.

Author: Lindsay Mothershed, Russell A. Kelly.

Statutory Authority: Code of Alabama 1975, §§ 22-27-3, 22-27-5, and 22-27-7.

History: November 18, 1981.

Amended: March 31, 1988 (Emergency Regulations); July 21, 1988; October 2, 1990; July 26, 1996.

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

**CHAPTER 8
PROCEDURES FOR VARIANCES**

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335-13-8-.01 Variances. The Department may grant individual variances from the specific provisions of Division 13 based upon the procedures of 335-13-8-.02 through 335-13-8-.05 whenever it is found by the Department, upon presentation of adequate proof, that non-compliance with Division 13 will not threaten the public health or unreasonably create environmental pollution. Variances per se are not favored by the Department.

Author: Russell A. Kelly.

Statutory Authority: Code of Alabama 1975, § 22-27-7.

History: November 18, 1981.

Amended: July 21, 1988; July 26, 1996.

335-13-8-.02 Petition for Variance.

(1) Applicability. Any person may request a variance from specific provisions of Division 13 by filing a Petition for Variance with the Department.

(2) Petition Requirements. To enable the Department to rule on the Petition for Variance, the following information, where determined applicable by the Department, 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 the 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 of Division 13 will not threaten the public health or unreasonably create environmental pollution.

(e) Applicable fees in accordance with Division 1.

Author: Russell A. Kelly.

Statutory Authority: Code of Alabama 1975, § 22-27-7.

History: November 18, 1981.

Amended: July 21, 1988; July 26, 1996.

335-13-8-.03 Extension of Prior or Existing Variance. A petition to extend a prior or existing variance granted by the Department shall be commenced by filing a Petition for Variance with the Department in accordance with the requirements of 335-13-8-.02.

(1) To the extent that the information required by 335-13-8-.02 has been included in the prior Petition for Variance for which extension is sought, a submission of that information shall not be required provided that the petition shall request the incorporation of the record, opinion and order in the prior proceeding into the new petition.

(2) A petition to extend a prior or existing variance shall be a new petition for Variance before the Department and shall be subject to all of the requirements of this Division except as provided in 335-13-8-.03(1).

Author:

Statutory Authority: Code of Alabama 1975, § 22-27-7.

History: November 18, 1981.

Amended: July 21, 1988.

335-13-8-.04 Department Action on Petitions for Variance. On receipt of a Variance Petition the Department will authorize one of the following actions, as they shall determine:

(1) The petition may be dismissed if the Department determines that it is not adequate under 335-13-8-.02.

(2) The Department may grant the variance as petitioned or by imposing such conditions as this Division may require, including the establishment of schedules of compliance and monitoring requirements.

(3) 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 procedures for appeal.

Author: Russell A. Kelly.

Statutory Authority: Code of Alabama 1975, § 22-27-7.

History: November 18, 1981.

Amended: July 21, 1988; July 26, 1996.

335-13-8-.05 Termination of Variance. Any variance granted by the Department may be terminated by the Department whenever the Department finds, after notice and opportunity for hearing, 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 state and federal laws and regulations or is unreasonably threatening the public health.

Author:

Statutory Authority: Code of Alabama 1975, § 22-27-7.

History: November 18, 1981.

Amended: July 21, 1988.

335-13-8-.06 [Reserved]

335-13-8-.07 [Reserved]

335-13-8-.08 [Reserved]

335-13-8-.09 [Reserved]

335-13-8-.10 [Reserved]

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

**CHAPTER 335-13-9
STATE SOLID WASTE MANAGEMENT PLAN**

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335-13-9-.01 Purpose. Pursuant to the provisions of Code of Alabama 1975, §§ 22-27-40 to 22-47-49, the Department is required to develop a comprehensive plan for managing solid waste in the state. Local authorities must develop solid waste management plans for their respective areas.

Author: James L. Bryant.

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

History: March 12, 2002.

Amended:

335-13-9-.02 State Solid Waste Management Plan. Pursuant to Code of Alabama 1975, § 22-27-45(4), the Alabama Solid Waste Management Plan, dated May 2008, and included in Appendix A of these regulations, is hereby adopted to the extent allowed by law.

Author: James L. Bryant; Phillip D. Davis.

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

History: March 12, 2002.

Amended: September 30, 2008.

335-13-9-.03 [RESERVED].

335-13-9-.04 Updating and Modifying the State Solid Waste Management Plan. The state solid waste management plan shall be subject to amendment and periodic revision.

(1) Each revision of the state solid waste management plan should address those items identified in Code of Alabama 1975, § 22-27-45(4)c. that the Department has statutory authority, at the time of revision, to control or regulate.

(2) The state solid waste management plan may be amended at any time as deemed necessary by the Director.

Author: James L. Bryant; Phillip D. Davis.

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

History: March 12, 2002.

Amended: September 30, 2008.

335-13-9-.05 Regional Planning and Development Needs Assessments.

(1) Each regional planning and development commission or council in the state shall prepare and adopt a regional needs assessment evaluating solid waste management needs in their respective regions as required by Code of Alabama 1975, §§ 22-27-46. The regional needs assessment shall be prepared each year and submitted to the Department and to local governments in their region.

(2) The regional needs assessment shall include, at a minimum, the following:

(a) An evaluation of the amount of solid waste generated within the region and the amount of remaining design disposal capacity, expressed in years, at each solid waste disposal facility within the region.

(b) An evaluation of the needs of all localities within the region as to the adequacy or inadequacy of solid waste collection, transportation and disposal within those localities.

(c) A projection of the expected population and business growth in the region, including specific estimates of the types of businesses which may be entering and leaving the region and the resulting impact these changes will likely have on waste volumes generated in the region.

(d) An evaluation of the environmental, economic and other relevant factors which would be implicated by acceptance of solid waste from beyond the boundaries of the region.

(3) Each landfill permitted by the Department must provide to the regional planning and development commission or council serving the county in which the facility is located the information as may be necessary to complete the annual regional needs assessment and shall be reported in the following manner:

(a) Information shall be reported using forms developed by the Department in consultation with the regional planning and development commission or council requesting the information.

(b) Information shall be submitted to the regional planning and development commission or council not later than March 31 of each calendar

year for the immediate past calendar year. However, the first reported information will be due March 31, 2003.

(4) Annual needs assessments shall be prepared and submitted to the Department and to local governments in their region not later than November 16 of each calendar year. The needs of all governing bodies of the county or municipality with responsibility for solid waste management plans within the region of each regional planning and development commission or council shall be evaluated and reported. The first regional needs assessment utilizing data reported under 335-13-9-.05(3) shall be submitted to the Department and to local governments in their region not later than November 16, 2003.

Author: James L. Bryant.

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

History: March 12, 2002.

Amended:

335-13-9-.06 Local Solid Waste Management Plans.

(1) The governing body of a county or municipality has a responsibility for and the authority to assure the proper management of solid wastes generated within its jurisdiction in accordance with its solid waste management plan. Local solid waste management plans shall be developed pursuant to the guidance stated in Code of Alabama 1975, § 22-27-47(b).

(2) Local solid waste management plans shall be revised and submitted to the Department in accordance with Code of Alabama 1975, § 22-27-47. The governing body of the county or municipality with responsibility for its solid waste management plan shall consider the information provided in the annual regional needs assessment prepared in accordance with 335-13-9-.05 when revising its solid waste management plan. The first revised plan shall be submitted to the Department not later than September 30, 2004. After the first revision date, local plans shall be revised and submitted in accordance with Code of Alabama 1975, § 22-27-47(i).

Author: James L. Bryant.

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

History: March 12, 2002.

Amended:

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

**CHAPTER 335-13-10
ALABAMA RECYCLING FUND GRANTS PROGRAM**

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335-13-10-.07 Eligibility Requirements
335-13-10-.08 Grant Award Criteria

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 Alabama 1975, §§ 22-27-12 and 22-27-17.

History: January 19, 2009.

335-13-10-.02 Definitions. When used in this chapter, the following terms have the meaning given below:

(a) "Advance funds" means monies approved for known costs to the applicant 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 period" means twelve months from the time the grant agreement is properly executed by all parties.

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

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

(k) "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.

Statutory Authority: Code of Alabama 1975, §§ 22-27-12 and 22-27-17.

History: January 19, 2009.

335-13-10-.03 Grant Application Requirements.

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

(2) Applications for grants from the Program must be submitted to the Department no later than March 1 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 of the appropriate local jurisdiction. Jurisdictions without an approved local solid waste management plan or without language in an approved 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 plan or the approval of a new 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 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.

Author: Phillip D. Davis.

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

History: January 19, 2009.

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 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 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.

(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.

(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 are received and approved by the Department.

Author: Phillip D. Davis.

Statutory Authority: Code of Alabama 1975, §§ 22-27-12 and 22-27-17.

History: January 19, 2009.

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 Alabama 1975, §§ 22-27-12 and 22-27-17.

History: January 19, 2009.

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.

Author: Phillip D. Davis.

Statutory Authority: Code of Alabama 1975, §§ 22-27-12 and 22-27-17.

History: January 19, 2009.

335-13-10-.07 Eligibility Requirements.

(1) 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) 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;

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

(c) The number of households to be covered by the proposed recycling project or program, as determined by the most recent U.S. census;

(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;

(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 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, will be managed.

Author: Phillip D. Davis.

Statutory Authority: Code of Alabama 1975, §§ 22-27-12 and 22-27-17.

History: January 19, 2009.

335-13-10-.08 Grant Award Criteria. Grants awarded under this chapter shall be made in accordance with the requirements of this part 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 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.

Statutory Authority: Code of Alabama 1975, §§ 22-27-12 and 22-27-17.

History: January 19, 2009.

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

**CHAPTER 335-13-11
SOLID WASTE FUND SITE REMEDIATION**

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335-13-11-.01 Purpose. The purpose of this chapter is to establish the procedures for the disbursement of monies from the Solid Waste Fund for use in assessing, investigating, conducting necessary remediation, and achieving closure of unauthorized solid waste dumps.

Author: Phillip D. Davis and Brent A. Watson.

Statutory Authority: Code of Alabama 1975, §§ 22-27-7, 22-27-12, and 22-27-10.

History: May 26, 2009.

335-13-11-.02 Solid Waste Fund.

(1) For the purposes of remediation conducted under the authority of this chapter, an innocent landowner shall mean 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.

(2) An unauthorized dump site will be eligible for remediation utilizing the Solid Waste Fund if either of the following occurs:

(a) The party or parties responsible for the creation, contribution to, and/or operation of an unauthorized dump cannot be identified and the site is located on property owned by an innocent landowner; or

(b) The party or parties responsible for the creation, contribution to, and/or operation of an unauthorized dump refuses to properly remediate the site.

(3) If the responsible party refuses to remediate an unauthorized solid waste dump site after notice from the Department, and the Solid Waste Fund is used to remediate the site, the Department may, through a civil action in circuit court, recover all costs incurred during the site remediation. Recoverable costs may include, but are not limited to, legal expenses for remediation or cost recovery, utilization of remediation contractors, vector control, disposal costs, administrative costs, and other associated costs.

(4) An innocent landowner shall not be liable for remediation costs if that person works cooperatively with the Department to remediate the site. The innocent landowner shall do all of the following:

(a) Sign a site access agreement and provide site access to Department personnel and contractors working under the Solid Waste Fund.

(b) Take reasonable measures to restrict site access to unauthorized parties.

(c) Provide all information the landowner may have regarding the source of the solid waste, and cooperate with the Department in the enforcement of the Solid Wastes and Recyclable Materials Management Act and its implementing regulations, in determining the responsible party and recovering the cost of remediation.

(d) Remove other materials or impediments to cleanup, if required, or grant permission to the Department or its authorized contractors to remove said materials or impediments to cleanup.

(e) Be in compliance with the applicable regulatory requirements of division 335-13.

(5) Should a landowner fail to comply with the requirements of rule 335-13-11-.02(4), said landowner shall not qualify as an innocent landowner,

and shall be liable for remediation of the site in accordance with rule 335-13-1-.13.

(6) Obligation of Funds.

(a) Solid Waste Fund monies for remediation of sites shall be obligated from funds collected by the Alabama Department of Revenue, funds from prior years not previously expended, or funds recovered under rule 335-13-11-.02(3).

(b) Once a site has qualified for remediation using Solid Waste Fund monies, remediation activities shall be funded until the site is properly closed in accordance with the Remediation Plan, as required by rule 335-13-11-.03(3).

(7) Nothing in chapter 335-13-11 shall establish liability or responsibility on the part of the Department or the State of Alabama to pay remediation costs from a source other than the Solid Waste Fund, nor to make payments for remediation costs if the Solid Waste Fund is insufficient to do so.

(8) The Department and the State of Alabama shall have no liability or responsibility if the property owner or party responsible defaults in payment for remedial actions undertaken by the property owner or party responsible to remediate an unauthorized dump.

Author: Phillip D. Davis and Brent A. Watson.

Statutory Authority: Code of Alabama 1975, §§ 22-27-2, 22-27-7, 22-27-10, and 22-27-12.

History: May 26, 2009.

335-13-11-.03 Remediation of Sites.

(1) Any owner of an interest in a property suspected of containing unauthorized disposal of solid waste shall provide to authorized representatives of the Department access to the property for the purposes of evaluating the site as a potential threat to public health, the environment and safety, and for determining the site's compliance status with the applicable requirements of this division.

(2) The person or persons responsible for the creation, contribution to, and/or operation of an unauthorized dump site shall be responsible for the remediation of the site. If the responsible person or persons is not determined, the landowner shall be responsible for remediation of the site, unless the landowner qualifies as an innocent landowner. An innocent landowner is exempt from the remediation requirements of rule 335-13-11-.03, provided he complies with the requirements of rule 335-13-11-.02(4).

(3) A person remediating an unauthorized dump site at the direction of the Department under the authority of the Solid Waste Fund, shall submit a Remediation Plan prepared by an engineer which shall be used to direct

remedial actions as necessary to comply with the closure requirements of rule 335-13-1-.13. The Department may waive the requirement for the submittal of a Remediation Plan prepared by an engineer based on the waste types, site geology or hydrology, or other factors as determined by the site ranking criteria under rule 335-13-11-.04. Notice of the waiving of this requirement will be made through the publication of the legal advertisement as set forth in rule 335-13-11-.05(1).

(4) Any required Remediation Plans must be approved by the Department prior to initiating remedial action, and must provide for the following as applicable:

(a) Removal of all solid wastes from the site, and transportation to an appropriate permitted solid waste landfill or management facility in accordance with Health Department transportation requirements, or delivery to an appropriate recovered materials processing facility for processing, reuse or recycling. Verification of removal and transport to an authorized facility shall be provided to the Department.

(b) Removal or treatment of substances that are a threat to human health and the environment that may have been released to the environment from the unauthorized accumulation, burning, processing or disposal of solid wastes and other materials.

(c) Restoration of the site by placing backfill in excavated areas, sloping and landscaping to minimize erosion and establishment of a vegetative cover over the site, or other best management practices to control storm water runoff.

(d) Securing the site by use of a barricade or other device or other methods as needed to address public safety concerns due to the proximity of the site to publicly-accessible areas such as roads and rights-of-way, or, when necessary to prevent further dumping, the posting of signs indicating the dump site is closed and the location of the nearest permitted landfill.

(e) Methods to remediate the site and to remove solid wastes, to include:

1. An estimate of the quantity of regulated wastes to be removed, including an estimate of the quantity of any materials recycled or reused.

2. A discussion of any procedures to be undertaken to manage any special wastes, such as medical wastes or industrial wastes, found during remediation of the site.

3. A description of the procedures to be utilized to determine if any wastes at the site are classified as hazardous waste, and if so, the procedures to be used to properly manage these hazardous wastes in accordance with applicable provisions of division 335-14.

(f) The implementation of an effective vector control plan, including baiting for at least two weeks following closure, to prevent vector migration to adjacent properties and spraying to control mosquitoes, or other vector control measures as determined necessary by the Department or the State Health Department.

(g) Stormwater runoff control. It shall be the responsibility of the party conducting the remediation to comply with the applicable requirements of division 335-6.

(h) Fire protection measures.

(i) A schedule of proposed remediation work.

(j) Disposition of the materials removed from the site, whether for disposal, reuse, or recycling.

(k) The total estimated cost of remediation, with a breakdown of costs estimated by the remediation contractor.

(l) The steps taken to locate and protect from damage, all utilities that may be present at the site, such as electricity, gas, telephone, etc.

(5) When a Remediation Plan prepared by an engineer is not required by the Department, the party conducting the site remediation shall submit a general description of work to be performed, the proposed disposition of the solid waste removed from the site, the proposed site safety and security measures to be taken, including steps to locate and protect all utilities that may be present at the site such as electricity, gas, telephone, etc., and the proposed restoration of the site, prior to being directed by the Department to begin site remediation activities.

Author: Phillip D. Davis and Brent A. Watson.

Statutory Authority: Code of Alabama 1975, §§ 22-27-7, 22-27-10, and 22-27-12.

History: May 26, 2009.

335-13-11-.04 Site Ranking System.

(1) A site ranking system shall be used to determine priority for remediating existing unauthorized dump sites utilizing Solid Waste Fund monies. Higher ranking sites will be remediated before lower ranking sites, unless it is determined by the Department that sites in close proximity may be bid together in an effort to more efficiently utilize Solid Waste Fund resources. Sites shall be ranked utilizing the factors set out below:

(a) The presence of human or animal infections or diseases as reported by the State Health Department or the Centers for Disease Control and Prevention, including, but not limited to, West Nile Virus, Eastern Equine

Encephalitis, and other infections or diseases as determined in conjunction with the Health Department or the CDC.

- (b) The estimated amount of solid waste in the unauthorized dump.
- (c) The proximity of an unauthorized dump site to:
 - 1. Schools, hospitals, nursing homes, assisted living and other health care facilities.
 - 2. Churches, businesses, residential areas, recreational areas and other populated structures or areas.
 - 3. Public water supply systems or sources, or coastal area beaches and dunes.
 - 4. Gas pipelines, electrical power lines, phone lines, and cable lines.
 - 5. Roadways, railroads, and other transportation resources.
 - 6. Private drinking water wells.
- (d) Fire hazard due to the lack of availability of adequate fire protective equipment or services, or to inadequate access control.
- (e) The presence or suspected presence of special wastes, such as medical or infectious wastes and industrial waste, or the presence of hazardous waste as defined by division 335-14.
- (f) The location of the site in an area of minority and/or low-income populations pursuant to *Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."*
- (g) The known or potential for adverse impacts to surface water or groundwater water quality due to the location of the unauthorized dump.
- (h) Other factors as determined relevant by the Department.
 - (2) In the case of sites with mixed wastes of solid waste and scrap tires, sites may be determined to be ineligible for cleanup utilizing the Solid Waste Fund if scrap tires and tire materials are a large percentage of wastes present. In these circumstances, remediation of the site may fall under the authority of the Scrap Tire Fund, as specified under chapter 335-4-2.
 - (3) Sites for which the Solid Waste Fund has been utilized to perform a previous cleanup may be given lower priority than other sites that have not yet been remediated. Utilizing Solid Waste Fund monies for cleanup of a site that was previously remediated will be at the discretion of the Department and costs associated with further remediation activities may be determined to be the responsibility of the landowner or responsible party.

(4) The Department shall review site rankings periodically, and if necessary, adjust the unauthorized solid waste dump site cleanup priority list based on new information regarding previously ranked sites. The priority list shall be adjusted when remediation has been completed on a site and it is removed from the priority list, or when a new site is identified and sufficient information is gathered to rank the new site.

Author: Phillip D. Davis and Brent A. Watson.

Statutory Authority: Code of Alabama 1975, §§ 22-27-7, 22-27-10, and 22-27-12.

History: May 26, 2009.

335-13-11-.05 Remediation Contracting.

(1) The Department will provide notice of requests for proposals from remediation contractors by publication of a legal advertisement.

(a) The Request for Proposals shall identify the site, scope of work, and a deadline for submittal of bids.

(b) Interested remediation contractors shall submit three sets of their bids in response to the Request for Proposals. Submittals shall also include:

1. A remediation plan prepared in accordance with rule 335-13-11-.03(4) for closure of the unauthorized dump, if required; and

2. Documentation of all required licenses, bonds, or other documents or approvals necessary to perform work under applicable Alabama contracting laws and regulations.

(c) Not later than sixty days after the deadline for accepting remediation proposals, the Department shall select the remediation contractor submitting the lowest responsible bid that meets all requirements of the scope of work in the Request for Proposals.

(d) A contract between the Department and the remediation contractor will be executed in compliance with State of Alabama contracting procedures. The contract shall contain the following items:

1. Detailed scope of work.
2. Schedule for completion of the work.
3. Recordkeeping and reporting requirements.
4. Maximum amount of remediation cost reimbursement.
5. Methods of payment to the contractor.

6. Provisions for removing the contractor for inadequate performance.

7. Financial assurance for the completion of the contract, if required by the Department.

8. Provisions for monetary penalties for failure to complete the work as stipulated in the contract in a timely manner.

(e) The Department may utilize processes available under state law for contractor selection and contract execution.

(2) Misrepresentation of any information in the proposal may be cause for disqualification of the contractor from further consideration on future unauthorized dump remediation projects.

(3) A contractor may lose authorization to perform work under the Solid Waste Fund if progress in completing actions at funded sites has been significantly delayed or inhibited due to the quality or timeliness of work performed by the contractor, or if the contractor is determined to be in significant noncompliance with any environmental regulation or statute.

(4) The acceptance of a proposal from a remediation contractor shall in no way establish liability or responsibility on the part of the Department or the State of Alabama with regard to the services provided by the contractor or circumstances which may occur as a result of the services, nor shall it guarantee that the contractor will receive future Solid Waste Fund work.

(5) Contractor Performance.

(a) The remediation activities shall be implemented consistent with the approved Remediation Plan in a manner acceptable to the Department in order for the contractor to be reimbursed for all costs associated with those activities.

(b) If, after the contract is executed, the Department determines that the activities in the approved scope of work need to be revised, an amended Remediation Plan shall be submitted that details the additional efforts that are to be undertaken to accomplish the revised remediation activities and the estimated cost increases proposed. The Department shall review the amended Plan, and, if costs projections are justified, shall approve the amended Remediation Plan, modify the approved scope of work, and obligate more funds from the Fund before the additional work may proceed. However, there shall be a presumption against allowing amendments to Remediation Plans for failure to adequately estimate costs.

Author: Phillip D. Davis and Brent A. Watson.

Statutory Authority: Code of Alabama 1975, §§ 22-27-7, 22-27-10, and 22-27-12.

History: May 26, 2009.

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

**CHAPTER 335-13-12
LANDFILL OPERATOR CERTIFICATION REQUIREMENTS**

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335-13-12-.01 Applicability.

(1) The training and certification requirements of this rule apply to persons involved in the operation of a Public Solid Waste Management Facility as defined by Code of Alabama 1975, §22-27-2, and rule 335-13-1-.03.

(2) Any person designated by the public solid waste facility as the person having direct supervision over and responsibility for the daily operation of the landfill must apply for and obtain operator certification under the conditions contained in these regulations by no later than April 15, 2010.

(3) By no later than April 15, 2010, all public solid waste management facilities in the State are required to have at least one certified operator on-site during hours of operation. However, a certified operator is not required to be on-site during the post-closure care period.

Author: S. Scott Story, Phillip D. Davis.

Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-27-9, 22-27-12(7).

History: November 24, 2009.

335-13-12-.02 Training and Certification Requirements.

(1) In addition to the requirements listed in rules 335-13-12-.02(2) and (3), all applicants for certification or re-certification under this chapter must complete a training course developed and provided by the Department. The curriculum of this training course will be tailored specifically to the requirements of this Division. The completion of this course will qualify towards the training requirements of rules 335-13-12-.02(2)(f) and (h), and of rules 335-13-12-.02(3)(d) and (f).

(2) Municipal Solid Waste (MSW) Landfill Operator Certification.

(a) The facilities subject to this chapter are required to have at least one operator holding certification from the Department.

(b) A person desiring to be certified or re-certified must file an application with the Department on a form provided by the Department, along with the appropriate application fee.

(c) At a minimum, the applicant must be a graduate of high school or an accredited GED program, and have worked at a MSW landfill in the State of Alabama for at least 3 years.

(d) The applicant must pass a written examination developed and given by the Department or, developed and given by another entity that has been approved by the Department.

(e) Any certificate granted under this rule shall be renewable every 3 years, unless revoked or invalidated for cause as determined by the Department.

(f) All persons required to obtain certification may become re-certified within 3 years by attending a total of at least 30 hours of Department approved training. The Department will maintain a list of training programs approved by the Department.

(g) An applicant who fails to pass an examination given by the Department may repeat the examination at the next regularly scheduled examination date. If the applicant again fails to pass, he may then reapply for the training and certification and pay the appropriate application fees.

(h) Exceptions.

1. An applicant for initial certification as an operator may request to be certified without meeting the requirements of either rule 335-13-12-.02(1)(c) or rule 335-13-12-.02(2)(d), provided the applicant has attended at least 15 hours of ADEM-approved training or continuing education courses since April 15, 2008 and can demonstrate at least 5 years of relevant experience working at MSW landfills; or

2. An applicant may request to be certified without meeting the requirements of both rule 335-13-12-.02(2)(c) and rule 335-13-12-.02(2)(d) by attending at least 15 hours of ADEM-approved training or continuing education courses since April 15, 2008, and can demonstrate at least 8 years of qualifying experience working at MSW landfills; or

3. An applicant may request initial certification pursuant to the provisions of rule 335-13-12-.03.

(3) Construction/Demolition and Industrial Landfill Operator Certification.

(a) The facilities subject to this chapter are required to have at least one operator holding certification from the Department.

(b) A person desiring to be certified must file an application with the Department on a form provided by the Department, along with the appropriate application fee.

(c) At a minimum, the applicant must be a graduate of high school or an accredited GED program, and have worked at a landfill in the State of Alabama for at least 1 year.

(d) The applicant must have attended at least 10 hours of relevant training or continuing education courses approved by the Department since April 15, 2008 to receive certification.

(e) Any certificate granted under this rule shall be renewable every 3 years, unless revoked or invalidated for cause as determined by the Department.

(f) All persons required to obtain certification may become re-certified within 3 years by attending a total of at least 30 hours of Department approved training. The Department will maintain a list of approved continuing education training programs.

(g) Exceptions.

1. An applicant for initial certification as an operator may request to be certified without meeting the requirements of 335-13-12-.02(3)(c) provided the applicant can demonstrate at least 3 years of relevant experience; or

2. The applicant has passed an approved examination in accordance with rule 335-13-12-.02(2)(d); or

3. The applicant may request initial certification pursuant to the provisions of rule 335-13-12-.03.

Author: S. Scott Story, Phillip D. Davis.

Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-27-9, 22-27-12(7).

History: November 24, 2009.

335-13-12-.03 Reciprocity.

(1) Certification may be issued by the Department to a person who holds a current valid certificate from another state provided that:

(a) The state of certification has entered into a reciprocity agreement with the Department, and;

(b) The applicant has completed the training course developed by the Department in accordance with rule 335-13-12-.02(1).

(2) Reciprocity agreements may be established if the Department determines that the certification and training program of another state meets or exceeds that of the Department.

Author: S. Scott Story, Phillip D. Davis.

Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-27-9, and 22-27-12(7).

History: November 24, 2009.

335-13-12-.04 Revocation of Certificate. Following a hearing before the Director or his designated representative, the Director may revoke or suspend a certificate if it is found that the operator:

(a) Has practiced fraud or deception in obtaining the certificate or in the performance of his duties as an operator;

(b) Has not used reasonable care, judgment, or the application of his knowledge or ability in the performance of his duties;

(c) Is incompetent or unable to perform his duties as an operator;

(d) Has knowingly submitted incorrect or falsified operational data or information;

(e) Has consistently failed to submit operational data as required by the department; or

(f) Has violated the requirements of this chapter.

Author: S. Scott Story, Phillip D. Davis.

Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-27-9, and 22-27-12(7).

History: November 24, 2009.

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

**CHAPTER 335-13-13
STATEWIDE SOLID WASTE REDUCTION GOAL**

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335-13-13-.01 Purpose

335-13-13-.02 Statewide Solid Waste Reduction Goal

335-13-13-.01 Purpose. This Chapter establishes a statewide solid waste reduction goal and the data requirements necessary to monitor the status of progress toward achieving said goal. Further, this Chapter establishes the schedule for routine evaluation of the goal and the need to revise it as appropriate.

Author: Phillip D. Davis.

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

History: November 24, 2009.

335-13-13-.02 Statewide Solid Waste Reduction Goal. There is hereby established a statewide solid waste reduction goal of 25%. Attainment of this goal (G) shall be determined on an annual percentage basis by use of the following formula:

$$G = (R / (R + W)) \times 100$$

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, and the total annual statewide solid waste generation (W) 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 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 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, as required under the State Solid Waste Management Plan established in ADEM Administrative Code 335-13-9.

Author: Phillip D. Davis.

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

History: November 24, 2009.