

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

LAND DIVISION

SCRAP TIRE PROGRAM

DIVISION 335-4

**1400 Coliseum Boulevard
Montgomery, Alabama 36110
(334) 271-7700**

CITE AS

ADEM Admin. Code R. 335-4-x-.xx

EFFECTIVE: AUGUST 4, 2004

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - SCRAP TIRE PROGRAM**

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LAND DIVISION - SCRAP TIRE PROGRAM**

**CHAPTER 335-4-1
GENERAL PROVISIONS**

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335-4-1-.01 **Definitions.** For the purpose of these rules , the following words and phrases shall have the meanings given to them in this Rule and as given by law unless the context of ADEM Administrative Code 335-4 indicates differently.

(a) Accumulation - any of the following activities related to scrap tires at a particular location:

1. The amassing or gathering of scrap tires, for whatever purpose, not in accordance with the Act and 335-4, in a manner that poses a threat to human health and the environment.

2. The amassing or gathering of scrap tires by a permitted processor, registered receiver, or permitted landfill or solid waste disposal facility.

(b) Act - the “Alabama Scrap Tire Environmental Quality Act,” Act No. 2003-332, Code of Alabama 1975, §22-40A-1 et seq.

(c) Approved - authorized, certified, permitted by, or meets standards of a regulatory authority.

(d) Baling - a method of volume reduction in which whole tires are compressed into bales.

(e) Centers for Disease Control and Prevention (CDC) - an agency of the U.S. Department of Health and Human Services whose function is developing and applying disease prevention and control, environmental health, and health promotion and education activities designed to improve the health of the people of the United States.

(f) Cleanup - the cleaning up, remediation, control, or removal of scrap tires from the environment.

335-4-1-.01

(g) Closure Plan - the plan for closing a processing facility prepared in accordance with 335-4-6-.06(b).

(h) Consumer - either a retail purchaser or a vehicle dealer who buys a tire to be installed on a vehicle for resale. A wholesale purchaser who buys tires for resale is not considered a consumer.

(i) Current Closure Cost Estimate - the most recent of the estimates prepared in accordance with 335-4-8-.03(2).

(j) Department - the Alabama Department of Environmental Management (ADEM) or its successor organization having similar responsibility.

(k) Department of Public Health (ADPH) - the Alabama Department of Public Health as defined by Code of Ala. 1975, §22-2-1.

(l) Director - the Director of ADEM or a duly authorized representative.

(m) Disposal - the deposit of a tire in a permitted solid waste disposal facility or landfill.

(n) Duly Authorized Representative - a person or position designated by a responsible official to act in place of that responsible official. A person or position is a duly authorized representative if:

1. The authorization is made in writing by a responsible official and is submitted to ADEM. The written authorization shall specify the actions or activities the duly authorized representative has approval to conduct for the regulated facility or activity, and shall be updated in writing to accurately identify any changes to the authorized individual or position.

2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity.

(o) Enforcement Officer - an employee of ADEM or the person appointed by the County Commission having a delegation agreement with ADEM to enforce the Act and 335-4, and deputy enforcement officers under the supervision of the County Enforcement Officer.

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

(q) Final Designated Facility - a person indicated on a manifest as the last, or ultimate, recipient of the scrap tires or processed tire material to be recycled, reused or disposed.

(r) Fuel User - a processor that uses tire-derived fuel as a source of energy and has been permitted by ADEM or a local air pollution control agency for the use of tire-derived fuel.

(s) Ground or Crumb Rubber - a processed tire material resulting from the grinding or other processing of scrap tires whose particles have a diameter of less than 0.375 inches and are 98% wire free by weight.

(t) Individual Scrap Tire Generator - an individual who generates eight (8) or less scrap tires per year from his personal use vehicles. Not included in this definition are tires removed from a vehicle used in commerce or business by an individual, even if that vehicle is owned by the individual.

(u) Innocent Landowner - a person holding an interest in real property upon which scrap tires are discarded illegally by another person without specific permission from the holder of the real property interest, provided the holder took reasonable steps to prevent foreseeable acts of illegal disposal.

(v) Manifest - a form used for identifying the quantity, composition, origin, routing and destination of scrap tires or processed tire material during its transportation from the point of origination to the point of end-use, processing or disposal.

(w) Operating Record - a collection of documents relating to the permitting or operation of a scrap tire facility.

(x) Operator - the person responsible for the overall operation of a scrap tire facility, or a part of a facility, with the authority and knowledge to make and implement decisions, or whose actions or failure to act may result in noncompliance with the requirements of 335-4 or the Act.

(y) Owner - The person who owns a scrap tire facility or part of a facility.

(z) Permit - written authorization granted to a person by ADEM to transport scrap tires or to operate a scrap tire processing facility.

(aa) Person - an individual, organization, business, or entity, whether or not organized for profit.

(bb) Processing - any of the following activities related to pneumatic tires:

1. Evaluating, transferring, or sorting tires to determine their suitability for reuse as used tires or for retreading.

2. Baling of whole tires or processed tire material.

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3. Shredding, reducing, or altering tires by any physical, chemical, or thermal process, including specifically, the burning of tires for fuel.

4. Incorporating whole scrap tires into any end-use product or structure where the scrap tire is not deconstructed into its component parts.

5. Punching or stamping products from whole scrap tires or producing processed tire material, crumb, or ground rubber product, whether or not that product is held for sale or used in the facility to produce an end product.

(cc) Processed Tire Material - a material produced from scrap tires through any chemical, physical, or thermal process, including, but not limited to, baling.

(dd) Processor - a person engaged in the processing of tires. A retreader is not considered a processor.

(ee) Recall Tire - a scrap tire resulting from its replacement at no cost to the consumer due to a manufacturing defect and specifically recalled by the manufacturer or by the federal government.

(ff) Receiver - a person who generates or accumulates scrap tires, including the following:

1. Class One Receivers include retail tire dealers, retreaders, and used tire dealers.

2. Class Two Receivers include all other receivers of scrap tires, other than Class One Receivers, that generate or accumulate a minimum of ten (10) scrap tires in a year, specifically including, among others, a component of government, vehicle fleet maintenance or dismantling, rental or sales operations, or other activity that generates scrap tires, whether or not organized for profit.

(gg) Recycling or Reuse - a use of scrap tires or processed tire material other than for land disposal, including, but not limited to, new products, rubber modified asphalt, civil engineering applications, or fuel use.

(hh) Replacement Tire - a pneumatic tire sold to the consumer regardless of whether or not mounted on a rim or wheel.

(ii) Responsible Official - means one of the following:

1. For a corporation, a president, vice-president, secretary, or treasurer of the corporation in charge of a principal business function, or other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of the person if the representative is responsible for the overall operation of one or more facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to the representative is approved in advance by ADEM.

2. For a partnership, a general partner.

3. For a sole proprietorship, the proprietor.

4. For a limited liability company, a person as designated under the authority of Code of Ala. 1975, §10-12-22.

5. For a municipality, state, federal, or other public agency, either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(jj) Responsible Party or Responsible Person - with respect to the remediation of an accumulation of scrap tires on any property, the person who deposited the tires on the property, if known and if different than the person who holds title to the property.

(kk) Retail Tire Dealer or Tire Dealer - a person selling replacement tires to the consumer whether or not mounted on a rim.

(ll) Retreaded Casing Replacement Tire - a retreaded casing sold to the consumer regardless of whether or not mounted on a rim.

(mm) Retreader - a person engaged in the retreading of casings.

(nn) Scrap Tire - any pneumatic tire no longer suitable or useable for its original purpose, and, in addition, includes but is not limited to, all tires with a manufacturing defect, except those that are in the process of being returned to the manufacturer for a refund.

335-4-1-.01

(oo) Scrap Tire Commission (STC) - the commission established to review implementation of the Act and to recommend changes of the Act to the Legislature.

(pp) Scrap Tire Environmental Fee - the fee established by the Act, to be collected on the purchase of replacement tires by the Department of Revenue and deposited to the Scrap Tire Fund.

(qq) Scrap Tire Facility or Facility - all contiguous land, structures and other appurtenances thereto used for the accumulation, storage or processing of scrap tires or processed tire material.

(rr) Scrap Tire Fund (STF) - the separate fund established by the Act to fund the cleanup of scrap tire sites, the scrap tire program implemented by ADEM and other activities described in the Act.

(ss) Scrap Tire Site - a site or location where scrap tires or tire pieces are illegally stored or accumulated and is not in compliance with the Act or 335-4.

(tt) Solid Wastes Disposal Act - Chapter 27 of Title 22, Code of Ala. 1975.

(uu) Solid Waste Disposal Facility (SWDF) - all contiguous land, structures and other appurtenances used for the processing, treatment or disposal of solid waste including landfill cells, and is not a land application unit, surface impoundment, injection well or waste pile as those terms are defined in ADEM Admin. Code 335-13-1-.03.

(vv) Thirty-Day Supply - the amount of scrap tires or processed tire material necessary to provide a 30-calendar day supply for the indicated process.

(ww) Threat - a condition creating a substantial probability of harm, where the probability and potential extent of harm makes it reasonably necessary to take immediate action to prevent, reduce, or mitigate damage to persons, property, the environment, natural resources, or the public health and safety.

(xx) Tire Chips - A processed tire material resulting from the shredding or chopping of whole scrap tires whose pieces have a basic geometrical shape and are generally between one-half (0.5) inches and two (2) inches in size and have most of the wire removed.

(yy) Tire-Derived Fuel (TDF) - a scrap tire or processed tire material intended for use as fuel.

(zz) Tire Materials - either scrap tires, processed tire material, or both.

(aaa) Tire Shreds - A processed tire material resulting from the shredding or chopping of whole scrap tires whose pieces have a basic geometrical shape and are generally between two (2) inches and twelve (12) inches in size.

(bbb) Transporter - a person engaged in the transportation of scrap tires or processed tire materials.

(ccc) Used Replacement Tire or Used Tire - a pneumatic tire that is capable of reuse as a tire, directly or following repair, regrooving, or retread, excluding processed tire material, end-use products or by-products derived from scrap tires, that meets all of the following requirements:

1. If a tire is designed for highway use it shall still have more than two thirty-seconds (0.0625) inch of tread.

2. The tire is stored in a rack or a stack, but not in a pile, in a manner consistent with National Fire Protection Association guidelines for tire storage, as well as in a manner that minimizes vector breeding.

3. The tire is stored in a manner to allow inspection of each individual tire.

(ddd) Warranty Tire - a scrap tire resulting from the replacement of a tire at no or reduced cost to the consumer, under a manufacturer's or other warranty, due to damage to the tire while mounted on a vehicle.

(eee) Whole Tire - a scrap tire that has been removed from a rim but which has not been processed.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-1-.02 Communications with ADEM.

(1) All correspondence concerning 335-4 or facilities regulated under 335-4 shall be mailed to ADEM, Solid Waste Branch, P. O. Box 301463, Montgomery, Alabama 36130-1463. All correspondence delivered as packages or overnight or express mail concerning 335-4 or facilities regulated under 335-4 shall be addressed to ADEM, Solid Waste Branch, 1400 Coliseum Blvd., Montgomery, Alabama 36110-2059. Electronic copies of documents may be sent via e-mail to TireMail@adem.state.al.us in accordance with 335-4-1-.02(4).

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(2) All applications, reports required by permits, or other information requested by ADEM shall be signed by a responsible official or by a duly authorized representative. For a Limited Liability Company (LLC) formed pursuant to Title 10, Code of Ala. 1975, all members of the LLC shall be identified in a permit application to ADEM and the LLC members shall designate in writing a responsible official and duly authorized representative bearing the signatures of all members.

(3) Any person submitting an application or a report under 335-4 shall make the following certification:

"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."

(4) Electronic submittal of reports, applications and other documents required under 335-4 may be sent to ADEM in accordance with Code of Ala. 1975, §8-1A-1 et seq. The electronic submittal shall contain all required information and be formatted in an electronic file format approved by ADEM. The documents may be submitted by mail on compact disk or in an e-mail.

(a) Any document submitted electronically is assumed by ADEM to have been submitted on behalf of the responsible corporate official having responsibility to certify the submittal in 335-4-1-.02(3).

(b) A written signature is not required for documents sent electronically. The applicant assumes the responsibility of assuring himself that any electronic document submitted on his behalf would have been certified by his written signature as required in 335-4-1-.02(3).

(c) The receipt date for an electronic submittal via e-mail shall be the date and time the document is received by ADEM as indicated by the computer software accepting the submission, in accordance with Code of Ala. 1975, §8-1A-15.

(d) Fees may be submitted electronically via an e-government contractor when the service becomes available to ADEM.

(5) ADEM may place certain documents resulting from implementation of 335-4 on its Internet web site at www.adem.state.al.us for viewing or use by the public and regulated persons.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-1-.03 Penalty for Violations. No person shall violate any of the provisions of 335-4. Violation of 335-4 shall be considered to be a violation of Code of Ala. 1975, §22-40A-1 et seq., and shall be punishable as provided therein or by the Environmental Management Act.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.; 22-22A-1 et seq.

History: August 4, 2004.

335-4-1-.04 General.

(1) Gender and Number.

(a) Words in the masculine gender also include the feminine and neuter genders.

(b) Words in the singular include the plural.

(c) Words in the plural include the singular.

(2) All scrap tires shall be processed and disposed of in a manner consistent with the requirements of 335-4.

(3) The following tires are exempt from regulation under 335-4:

(a) Tires used on devices moved exclusively by human power.

(b) Solid tires manufactured from plastic or rubber.

(c) Other tires as may be approved by ADEM on a case-by-case basis.

(4) Scrap Tire Environmental Fee. A tire dealer selling replacement tires shall collect the Scrap Tire Environmental Fee at a rate of one dollar (\$1.00) per tire. The Alabama Department of Revenue (ADOR) shall specify how the fee is to be submitted.

(a) Used tires are subject to the Scrap Tire Environmental Fee.

(b) Recall tires are not subject to the Scrap Tire Environmental Fee.

(c) Warranty tires are subject to the Scrap Tire Environmental Fee, except those replaced at no charge due to a manufacturing defect.

335-4-1-.04

(5) Vector Control Plans. A Vector Control Plan required to be developed by a person remediating scrap tire sites or storing tire materials shall be prepared and implemented to protect public health and welfare by controlling mosquitoes and rodents. The Vector Control Plan shall contain all of the following:

(a) A list of all vectors that may be associated with the scrap tire site or facility.

(b) A description of surveillance and monitoring techniques appropriate for the type of vectors expected, and a schedule for surveillance and monitoring.

(c) A description of preventative treatments, including larvacides and adulticides, and a schedule of the treatments.

(d) A list of the chemicals to be used, including a copy of all labels or Material Safety Data Sheets.

(e) A copy of a contract with a licensed pest control operator who will perform the inspections, treatments, monitoring and surveillance, or a narrative of how the facility will perform these functions.

(6) Inspection of Facilities or Vehicles.

(a) A receiver, processor, fuel user, processor exempt in 334-4-3-.02, or transporter shall, upon request of an authorized enforcement officer, permit the enforcement officer to enter, at all reasonable times, property and buildings relating to past, present, and future management of scrap tires and allow the representative to inspect facilities, equipment, vehicles, or the operating record, and to conduct monitoring and sampling activities. The inspections may be unannounced, and a written report prepared by the enforcement officer shall be provided to the authorized representative of the facility at a later date. The report shall specify items not in compliance with 335-4 and shall outline measures for corrections and dates for compliance.

(b) The facility may be required to prepare certain items for inspection upon the request of an authorized enforcement officer.

(7) Electronic Records and Retention. Electronic versions of records may be maintained in the operating record in accordance with Code of Ala. 1975, §8-1A-12 and must provide that:

(a) The electronic storage medium is of sufficient quality to maintain the record in viewable form for at least five (5) years.

(b) The electronic information is indexed and filed so it is easily accessible to an authorized enforcement officer when reviewing records.

(c) The appropriate electronic viewing device is made available to ADEM upon request to review records. Paper copies of documents larger than 11 inches by 17 inches shall be maintained.

(8) Applicability. These regulations are not applicable to and do not limit the handling, storage or use of new tires or used tires meeting the definition of used tires found in 335-4-1-.01(ccc).

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - SCRAP TIRE PROGRAM**

**CHAPTER 335-4-2
SCRAP TIRE SITE REMEDIATION**

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335-4-2-.01 Remediation of Sites.

(1) ADEM, ADPH or delegated County Enforcement Officers may access property suspected of containing scrap tire sites for the purpose of evaluation of the threat to public health, the environment and safety.

(2) The responsible party for a scrap tire site shall be responsible for the remediation of the site. If the responsible party is not determined, the landowner shall be responsible for remediation of the site, unless the landowner qualifies as an innocent landowner.

(3) If ADPH, County Health Departments or CDC determines that a significant threat to public health exists from disease vectors associated with the scrap tire site, ADEM can require the responsible party or landowner through an administrative or civil action to immediately implement vector control at the site. If the responsible party or landowner refuses to implement vector control measures, STF monies may be used for this purpose. ADEM may recover all costs associated with the vector control actions pursuant to a determination of a public health threat.

(4) A person remediating a scrap tire site, whether on their own initiative or at the direction of ADEM, shall submit a Remediation Plan prepared by an engineer which shall be used to direct remedial actions.

(5) The Remediation Plan shall be approved by ADEM prior to initiating action, and provide for the following as applicable:

(a) Remove all scrap tires from the site and transport to a permitted processor, solid waste transfer station or SWDF, unless otherwise approved by ADEM. Verification of removal and transport to an authorized facility shall be provided to ADEM. All other regulated solid waste at the site will be removed in the same manner.

335-4-2-.01

(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 accumulation, burning or processing scrap tires and other materials.

(c) Restoration of the site by placing backfill in excavated areas, sloping and landscaping to minimize erosion and establish a vegetative cover over the site.

(d) Securing the site by a barricade or other device and posting signs indicating the dump site is closed and the location of the nearest SWDF when considered necessary by ADEM.

(e) Methods to remediate the site and to remove scrap tires and other wastes, to include:

1. An estimate of the quantity of whole tires or processed tire material to be removed.

2. An estimate of other regulated wastes to be removed.

3. A list of equipment to be utilized.

4. Any processing of scrap tires on-site, and storage of processed tire material.

(f) Vector Control Plan.

(g) Stormwater runoff control.

(h) Access control.

(i) Fire protection measures.

(j) Key staff involved in the supervision and performance of the proposed work.

(k) A schedule of proposed work.

(l) Disposition of the scrap tires, processed tire materials and other materials removed from the site.

(m) Site restoration.

(n) The total cost of remediation, with a breakdown of costs estimated by the contractor, if the cost of remediation is to be paid from the STF.

(6) A Remediation Plan prepared by an engineer is not required when the total number of scrap tires at a site is less than 500. The responsible

person at a site with less than 500 scrap tires shall submit a general description of work to be performed, the disposition of the scrap tires and other solid waste removed from the site, and restoration of the site.

(7) A person holding an interest in real property upon which scrap tires are discarded may remediate that property himself without obtaining a permit from ADEM to transport scrap tires to a permitted processor or SWDF prior to September 30, 2006. After this date, the property owner may obtain a limited-use transporter permit to transport tire materials.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-2-.02 Site Ranking System. A site ranking system shall be used to determine priority for remediating existing scrap tire sites utilizing STF monies. Higher ranking sites will be remediated before lower ranking sites.

(a) The following factors shall be considered in determining priority ranking:

1. Human and Animal Infection or Disease Threats, including:

(i) The presence or threat of vectors that may cause the following infections or diseases:

(I) West Nile Virus.

(II) Eastern Equine Encephalitis.

(III) Other infection or disease threats as determined in conjunction with ADPH and CDC.

(ii) The presence of an infection or disease threat in 335-4-2-.02(a)1. as reported by ADPH or CDC, in the form of:

(I) Human mortality confirmed in area.

(II) Human infection confirmed in area.

(III) Animal mortality confirmed in area.

(IV) Animal infection confirmed in area.

2. Estimated Quantity of Scrap Tires. Sites with more tires will be given a higher ranking.

(i) Greater than 3,000,000.

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(ii) Greater than 1,000,000.

(iii) Greater than 250,000.

(iv) Greater than 10,000.

(v) Less than 10,000.

3. Proximity of a Scrap Tire Site to:

(i) Schools, hospitals, and nursing homes.

(ii) Churches, businesses, residential areas, recreational areas and other populated structures or areas.

(iii) Public water supply systems or sources, or coastal area beaches and dunes.

(iv) Gas pipelines, electrical power lines, phone lines, and cable lines.

(v) Roadways, railroads, and other transportation resources.

(vi) Other structures or areas.

4. Fire Hazards.

(i) Lack of availability of adequate fire protective equipment or services.

(ii) Height and width of tire pile.

(iii) Inadequate fire lanes.

(iv) Inadequate access control.

(b) ADEM shall review site ranking yearly, during the month of July, and adjust the scrap tire site cleanup priority list not later than August 31. If no new sites are added during the previous year, the priority list will not be adjusted unless additional information on an existing site affects its ranking. The priority list shall be adjusted when remediation has been completed on a site and it is removed from the priority list.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-2-.03 Scrap Tire Fund. The STF may be used to pay for the cost of remediation at a scrap tire site on the Site Ranking System.

(a) A scrap tire site will be eligible for remediation utilizing the STF if either of the following occur:

1. The responsible party cannot be identified and the site is located on property owned by an innocent landowner.

2. The responsible party refuses to remediate the site, and the site is located on property owned by an innocent landowner.

(b) If the responsible party refuses to remediate a scrap tire site after notice from ADEM, and the STF is used to remediate the site, ADEM 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.

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

1. Provide site access to ADEM or its representatives.

2. Restrict site access.

3. Provide all information the landowner may have regarding the source(s) of the scrap tires, and cooperate with ADEM in enforcement of the Act and 335-4 in determining the responsible party and recovering cost of remediation.

(d) Obligation of Funds.

1. STF monies for remediation of sites shall be obligated on an annual basis from funds collected the previous fiscal year by ADOR, funds not previously expended or funds recovered under 335-4-2-.03(b).

2. Once a site has qualified for remediation using STF monies, remediation shall be continuously funded until the site is closed.

(e) Nothing in 335-4 shall establish liability or responsibility on the part of ADEM, the STC or the State of Alabama to pay remediation costs from a source other than the STF, nor to make payments for remediation costs if the STF is insufficient to do so.

(f) ADEM, the STC or the State of Alabama shall have no liability or responsibility if the owner or operator defaults in payment for remedial actions undertaken by the owner or operator to remediate a scrap tire site.

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(g) If funds from a financial assurance instrument are deposited in the STF in accordance with 335-4-8-.01(4), those funds shall be used exclusively for closure or remediation of the site or facility covered by the financial assurance instrument. The site or facility does not have to be in the Site Ranking System to utilize the funds deposited to the STF. Any funds remaining in the STF after completion of closure or remediation of the site or facility shall remain in the STF for use as allowed by 335-4-2-.03 for closure or remediation at other sites on the Site Ranking System. If there are insufficient funds from the financial assurance instrument to complete closure or remediation, the STF shall be used and ADEM may seek the recoverable cost in 335-4-2-.03(b) through a civil action in circuit court.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-2-.04 Remediation Contracting.

(1) Approved Contractors List.

(a) Remediation contractors who wish to perform work under the STF must demonstrate to the satisfaction of ADEM through the submittal of a technical proposal using ADEM Form 530 that they have adequate staff and resources to perform scrap tire site remediation. The remediation contractor must provide services that include, but are not limited to, preparation of a remediation plan, site assessment, site security, excavation or processing of scrap tires or tire materials, vector control, transportation of tire materials, and site closure.

(b) ADEM will provide notice of requests for technical proposals from remediation contractors by publication of a legal advertisement.

1. Completed proposals shall be independently evaluated by members of a Contractor Review Committee to establish an approved contractor list. The Review Committee shall consist of three (3) ADEM staff appointed by the Director and two (2) members of the STC appointed by the Chairperson of the STC. This process shall be repeated at yearly intervals to provide interested firms with the opportunity to submit qualifications to be included on the approved contractors list.

2. Contractors that have been approved will not be required to resubmit except under the provisions of 335-4-2-.04(1)(c).

3. Contractors who submitted technical proposals but were not approved may resubmit in response to the next request for proposals. Contractors will be notified in writing of the reasons why they were not approved.

4. A contractor shall not be eligible for payment of expenses from the STF if he is not on the approved contractors list.

5. Misrepresentation of any information in the technical proposal shall be cause for disqualification of the firm from further consideration or removal of the firm from the approved list

(c) Remediation contractors that fail to satisfactorily maintain the requirements of 335-4-2-.04(1) will not be approved to perform remediation work utilizing the STF until a demonstration is made that satisfies the requirements of 335-4-2-.04(1).

1. A contractor may lose authorization to perform work for the STF if, due to the quality or timeliness of work performed by the contractor, progress in completing actions at STF-funded sites has been significantly delayed or inhibited.

2. A contractor removed from the approved contractor list may submit a request for evaluation as an approved contractor at the next notice of request for proposals in 335-4-2-.04(1)(b). This contractor shall satisfactorily demonstrate that steps have been taken to address the causes for losing approval. A satisfactory evaluation by the Contractor Review Committee will enable the contractor to perform STF work.

(d) The approval of a remediation contractor shall in no way establish liability or responsibility on the part of ADEM, STC or the State of Alabama in regards to the services provided by the contractor or circumstances which may occur as a result of the services.

(2) Contractor Selection.

(a) Once a scrap tire site has been determined by ADEM to be eligible for STF remediation, ADEM shall issue a Request for Remediation Plans from those contractors on the approved contractor list. The Request for Remediation Plans shall identify the site, scope of work, and a deadline for submittals.

(b) Interested remediation contractors shall submit three (3) sets of its Remediation Plan, prepared in accordance with 335-4-2-.01(5) by an engineer, for closure of the scrap tire site.

(c) Not later than thirty (30) days after the deadline for accepting remediation proposals in 335-4-2-.04(2)(a), ADEM shall select the remediation contractor submitting the lowest bid meeting all requirements of the scope of work in the Request for Remediation Plan.

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

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. Reserve to be held until completion of the work.
7. Provisions for removing the contractor for inadequate performance.

(3) Contractor Performance.

(a) A remediation contractor performing work payable by the STF shall not be required to obtain a processor permit.

(b) If the costs of completing the activities in the approved scope of work are estimated to exceed the amount of funds obligated from the STF, an amended Remediation Plan shall be submitted that details the cost increases proposed. ADEM 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 STF before the additional work may proceed. However, there shall be a presumption against allowing amendments to Remediation Plans for failure to adequately estimate costs. To justify increased cost projections, extraordinary reasons must be shown to exist that were not known at the time the scope of work was approved by ADEM.

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

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - SCRAP TIRE PROGRAM**

**CHAPTER 335-4-3
REGISTRATION AND PERMITTING**

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335-4-3-.01 Registration Requirements.

(1) Scrap Tire Sites. All persons who are not registered receivers of scrap tires or permitted processors and who have more than 100 scrap tires on their property as of September 1, 2003, shall register with ADEM no later than September 1, 2004 using ADEM Form 541 and provide an estimate of the number scrap tires and their location.

(2) The following scrap tire facilities are required to register with ADEM using ADEM Form 537:

(a) Class One and Class Two Receivers.

(b) Fuel users.

(c) Facilities that produce an end-use material or product from ground or crumb rubber derived from scrap tires purchased from another facility.

(d) Facilities using the component parts of tire materials as a substitute raw material.

(3) Owners or operators of scrap tire facilities in existence on the effective date of 335-4 shall register with ADEM within forty-five (45) days of the effective date of 335-4 or not later than September 15, 2004. New scrap tire facilities desiring to begin operation after the effective date of 335-4 shall register at least forty-five (45) days prior to receiving tire material. Once ADEM has reviewed the registration form, ADEM shall provide the facility with its registration number and the accumulation limit of tire materials it may accumulate or store.

335-4-3-.01

(4) Registered facilities may request a modification to the registration approval if they desire to increase the accumulation limit of tire materials they may accumulate or store. This request shall be submitted to ADEM at least forty-five (45) days prior to the proposed change in operations utilizing ADEM Form 537.

(5) Registrations are not transferable. If a registered facility has a change in ownership, the new owner shall register at least thirty (30) days prior to assuming ownership or operational control of the facility. The new owner registration will not be issued until the current facility has requested their registration to be revoked.

(6) If a scrap tire receiver is found to be in significant noncompliance with 335-4, the registration for the receiver may be terminated or denied by the Director. The receiver may request an informal hearing with ADEM to discuss the termination or denial by ADEM. Following this hearing, the Director shall advise the receiver of his final determination on the registration.

(7) Registered facilities that discontinue receiving, processing or utilizing tire materials shall notify ADEM within thirty (30) days of a change in operations and request that their registration be terminated. All tire materials shall be removed from the facility before ADEM will terminate the registration.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-3-.02 Requests for Exemption. Facilities in 335-4-3-.01(2)(c) and (d) may request an exemption as a processor.

(a) The request shall be made on ADEM Form 537. A person applying for an exemption shall submit fees required in 335-1-6.

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

(c) After review of the application for exemption, ADEM shall notify the processor if the application is approved.

1. The ADEM exemption shall specify the accumulation limit of tire materials that may be stored at the facility, and other special handling requirements.

2. An exemption granted by ADEM shall be valid for a period of three (3) years. Application for renewal of the exemption shall be made on ADEM Form 537 and submitted to ADEM at least forty-five (45) days prior to the expiration date of the current exemption.

3. If processes or conditions that warranted an exemption for the facility change during the term of the exemption, the facility shall notify ADEM within thirty (30) days of the change. ADEM may terminate the exemption if changes reported by the facility require a permit.

(d) An exemption may be transferred to a new owner or operator by submitting an application using ADEM Form 330. Procedures in 335-4-3-.06(a) must be followed.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-3-.03 Requirement for a Permit. The following facilities shall obtain a permit from ADEM to transport or process tire materials:

(a) Transporters of Scrap Tires. Transporters of scrap tires who transport more than eight (8) scrap tires at a time shall obtain a transporter permit. A transporter who acts as a processor shall obtain a transporter permit and a processor permit.

(b) Processors of Scrap Tires. Permits shall be issued for processing based on the activities performed. The classification of processors shall be:

1. Processors who shred, size-reduce or alter tires, punch or stamp tire materials to produce an end-product, or produce products from ground or crumb rubber at their facility. These shall be known as Class One processors.

2. Processors who only shred, size reduce or alter tires at their facility, and who shall be known as Class Two processors.

3. Mobile processors, who shall be known as Class Three Processors.

4. Class Four Processors are persons who evaluate or sort tires to determine their suitability for reuse as used tires or for retreading, including the following:

(i) Transporters who evaluate or sort tires to determine their suitability for reuse as used tires or for retreading.

(ii) SWDF.

(c) The following transporters are exempt from the requirement to obtain a permit from ADEM:

1. Class One Receivers.

335-4-3-.03

2. Persons transporting less than eight (8) scrap tires at one time to a registered receiver, permitted processor or SWDF.

3. Class Two receivers who are units of federal, state or local governments when transporting their own scrap tires.

4. State, county or municipal vehicles transporting illegally disposed tire materials removed from property owned or controlled by the governmental unit.

(d) The following processors are exempt from the requirement to obtain a permit from ADEM:

1. Registered Class One Receivers who evaluate tires to determine suitability for reuse as used tires or as casings for retreading.

2. Processors in 335-4-3-.01(2)(b) to (d) and fuel users that are properly registered and have received the necessary exemptions in 335-4-3-.02.

3. Registered Class Two Receivers who are units of federal, state or local governments who evaluate their own tires to determine suitability for reuse as used tires or as casings for retreading.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-3-.04 Permit Applications. An existing facility in operation on the effective date of these regulations that must obtain a permit shall submit a complete application not later than 120 days after the effective date of these regulations. A facility not in operation on the effective date of these regulations shall submit a complete permit application at least 120 days prior to receiving tire materials for transportation or processing.

(a) Transporters. Applicants for a permit to transport tire materials shall submit ADEM Form 538. A transporter acting as a processor as classified in 335-4-3-.03(b)4.(i) shall use ADEM Form 538 to apply for a processor permit.

(b) Processors. Applicants for a permit to process tire materials shall submit ADEM Form 540.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-3-.05 Issuance of Permits.

(1) When ADEM is satisfied that an application is complete it shall make a determination to issue or to deny a permit for the operations or activities described in the application. ADEM shall notify the applicant of this determination. If the determination is to issue, reissue, or modify a permit, ADEM shall prepare a draft permit. Following review of the draft permit by the applicant and resolution of any comments received from the applicant, the permit shall be issued by ADEM.

(2) A determination may be made by the director to deny a permit or to delay consideration of a permit application if the applicant owns or operates facilities within the state that are in substantial or continuing noncompliance with the Act or a permit issued by ADEM, as determined by ADEM, until the noncompliance is corrected or, if the applicant could not comply with the permit if issued. ADEM shall notify the applicant of this determination.

(3) Duration of Permits.

- (a) Transporter permits shall be valid for three (3) years.
- (b) Processor permits are valid for five (5) years.
- (c) Permits are subject to revocation or termination under 335-4-3-.06(c).

(4) Continuation of Expiring Permits. The terms and conditions of an expiring scrap tire permit are automatically extended pending issuance of a new permit if the permittee has submitted a complete application for reissuance of a permit in accordance with 335-4-3-.04 at least 120 days prior to permit expiration, and the delay in permit issuance has not been caused by the actions of the permittee. A complete application is one that contains all items required in the permit application and its accompanying instructions, and the items contain enough information to allow ADEM to conduct a detailed review of the application. Failure to submit a complete application and reapply at least 120 days prior to permit expiration may result in expiration before reissuance. If ADEM determines that it cannot reissue an existing permit prior to its expiration date because a completed application was not received in time to reissue the permit, ADEM shall notify the permittee forty-five (45) days prior to the expiration date that the permit will expire and may subject the permittee to enforcement action as described in 335-4-3-.07.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-3-.06 Changes to Permits. Subject to notice, hearing, and appeal rights of the permittee, ADEM may transfer, modify, or revoke and reissue a scrap tire permit during its term for cause, including but not limited to, the causes listed in 335-4-3-.06.

(a) Permit Transfers. A permit may be transferred to a new owner or operator only if the permit has been modified or revoked and reissued through application to ADEM and payment of fees in 335-1-6.

1. If there is to be no change in the operation of the scrap tire facility that affects the permittee's ability to comply with the permit and if there are to be no changes in the design or operation of the facility, the permit may be transferred, provided that all of the following conditions are met:

(i) The current permittee and the prospective permittee shall apply for a transfer of the permit at least thirty (30) days in advance of the change in owner or operator utilizing ADEM Form 330.

(ii) The application shall include a notarized written agreement between the existing and new permittees containing the specific date for transfer of permit responsibilities, coverage and liability.

(iii) Financial assurance requirements of 335-4-8 have been met by the new permittee and ADEM has been provided copies of and approved the financial instruments utilized.

2. If the transfer would result in changes to the design or operation of the facility, the transfer of ownership may not commence until a new application has been submitted to ADEM in 335-4-3-.04 and the permit has been modified accordingly.

3. All persons having or claiming an interest in the real property where the facility is located shall be notified by the applicant that change-of-permittee has been requested. The permit shall not be transferred until the applicant has provided verification to ADEM that these notices have been received by those persons.

(b) Modification or Revocation and Reissuance of Permits. When ADEM receives information or an application for modification with fees in 335-1-6, or conducts a review of the permit file, it may determine whether or not cause for modification or revocation and reissuance exists. ADEM may modify or revoke and reissue the permit accordingly and may request an updated application if necessary. The permittee may submit an application for modification or revocation and reissuance and shall provide justification of the request and clearly outline what parts of the permit are to be modified. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to

revision and the permit may be reissued for a new term. If cause does not exist, ADEM shall not modify or revoke and reissue the permit.

1. The following are causes for modification:

(i) Material and substantial alterations or additions to the permitted facility that occurred after permit issuance.

(ii) Receipt of information not available at the time of permit issuance (other than revised regulations).

(iii) Changes by statute, promulgation of new or amended rules, or judicial decisions.

(iv) Changes to General Permit Provisions:

(I) Administrative and informational changes.

(II) Changes to the financial assurance instruments.

(III) Changes to remove permit conditions that are no longer applicable.

(v) Changes to General Facility Standards:

(I) Changes to the amount or volume of tire materials that may be accumulated, stored or processed that occur without a change or addition of processing equipment.

(II) Changes in procedures for maintaining the operating record.

(vi) A permit may be modified to correct typographical or technical mistakes associated with establishing permit conditions.

(vii) Other causes for modification not listed in 335-4-3-.06(b)1.(i) to (vi) may be considered by ADEM. The applicant or ADEM must justify why this modification is necessary.

2. Request for modification shall be made at least forty-five (45) days prior to the commencement of alterations or other changes that may affect operation of the facility.

(c) Termination or Denial of Permits. Any of the following are causes for terminating a permit during its term, or for denying an application for permit reissuance:

1. Substantial or continuing permit noncompliance.

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2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of relevant facts.

3. A change in a condition that requires either a temporary or a permanent cessation of activities controlled by the permit.

4. The permittee's failure to submit a complete application to include additional information or items requested by ADEM.

5. A determination that continued operation of the facility endangers human health or the environment.

6. The permittee's failure to submit a complete renewal application at least 120 days prior to permit expiration.

7. The permittee's failure to maintain financial assurance as required in 335-4-8.

(d) Permit Suspension. When a permittee is not in compliance with a permit, the director may suspend the permit until the permittee has taken the action(s) necessary to achieve compliance with the permit.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-3-.07 Enforcement under the Act.

(1) A permit issued by ADEM is a permit for the purpose of the Act and is enforceable under 335-4-1-.03. Violations of the conditions of a permit are subject to one or more of the following enforcement actions under the Act or the Environmental Management Act:

(a) An administrative order requiring abatement, compliance, mitigation, cessation of activity, cleanup, or penalties.

(b) An action for damages.

(c) An action for injunctive relief.

(d) An action for penalties.

(2) An order issued by ADEM shall specify a reasonable time within which compliance shall be achieved.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - SCRAP TIRE PROGRAM**

**CHAPTER 335-4-4
MANAGEMENT OF TIRE MATERIALS**

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335-4-4-.01 Accumulation of Scrap Tires.

(1) No person may accumulate more than 100 scrap tires, except a permitted processor, a person who registers as required in 335-4-3-.01(2), or a permitted SWDF. No person may expose accumulated scrap tires to the elements for more than thirty (30) days.

(2) A Class One Receiver may be registered to accumulate no more than 1,500 scrap tires.

(3) A Class Two Receiver may be registered to accumulate no more than 300 scrap tires. Tire manufacturers are excluded from this limit if the scrap tires are not exposed to the elements.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-4-.02 Storage Requirements.

(1) Indoor Storage. The amount of tire materials that may be stored indoors shall not exceed the number of scrap tires or weight of processed tire material that can be processed or utilized in a thirty-day period. The facility shall process or utilize tire materials on a first-in, first-used basis. ADEM shall approve the amount of tire materials that may be stored indoors when it issues a facility registration or permit. A Vector Control Plan is required if tire materials containing water are stored indoors.

(2) Outdoor Storage. The amount of tire materials that may be stored outdoors shall not exceed the number of scrap tires or weight of processed tire material that can be processed or utilized in a thirty-day period. The facility shall process or utilize tire materials on a first-in, first-used basis. ADEM shall approve the amount of tire materials that may be stored outdoors

when it issues a facility registration or permit. All scrap tire facilities that store scrap tires or processed tire material outdoors shall comply with the following technical and operational standards:

(a) Tire materials shall not be stored in the 100-year flood plain, in coastal beaches or dunes, or within 200 feet of a wetland or waters of the state as these terms are defined in ADEM Admin. Code 335-13, unless otherwise approved by ADEM.

(b) The maximum dimensions of a tire materials pile shall not exceed:

1. A width of fifty (50) feet.
2. A length of 200 feet.
3. An area of 10,000 square feet.
4. A height of fifteen (15) feet for whole tires or nine (9) feet for processed tire material, unless measures are provided that assures maximum temperature shall not exceed 300° Fahrenheit at a point in the pile.

(c) For piles of tire materials capable of holding water, a Vector Control Plan shall be prepared.

(d) A facility shall arrange for fire protection.

1. If a facility does not provide its own fire protection, the facility shall make arrangements with public or private emergency response personnel that are capable of providing an adequate fire protection system. Documentation of this arrangement shall be submitted to ADEM.

2. The facility shall provide a letter to ADEM from the fire department or fire marshal within whose jurisdiction the facility is located stating that they have reviewed and approved the fire protection system or plan.

(e) An Emergency Response Plan shall be developed prior to initial receipt of tire materials and updated at least annually or upon changes in the operation. The Plan shall contain the following:

1. A list of names and telephone numbers of persons to be contacted in case of a fire, accident or other emergency. Communication equipment sufficient to ensure notification of applicable agencies in case of an emergency shall be maintained at the facility and described in the Plan.

2. A list of emergency response equipment, its location, and how it shall be utilized.

3. Procedures to contain and dispose of tire fire residue.

4. A list of other materials stored on-site that may accelerate or expand a fire, to include location and other necessary precautions to take with these materials.

(f) A 100-foot wide fire lane shall be placed around the perimeter of tire materials piles, and 50-foot fire lanes shall be placed between individual tire materials piles, unless otherwise approved by ADEM. Access to the fire lane shall be unobstructed at all times. Potentially flammable vegetation shall be removed if growing within the fire lane.

(g) A berm or other features shall be constructed around tire materials piles to contain liquid runoff from a tire fire.

(h) No operations or activities involving open flames shall be conducted within twenty-five (25) feet of a tire materials pile.

(i) Adequate access controls, to include fences, gates, or other means, shall be provided to minimize entrance by unauthorized persons.

(j) An attendant, operator, or some authorized person shall be present at all times when the facility is operating.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-4-.03 Engineered Uses of Processed Tire Material.

(1) A person proposing to utilize processed tire material in a civil engineering application shall receive approval from ADEM in writing before initiating the use application. Engineered uses shall be in general conformity with the latest edition of "ASTM Standard Practice for Use of Scrap Tires in Civil Engineering Applications" (D 6270-98).

(2) Approved engineered uses of processed tire material include, but are not limited to:

(a) SWDF construction and closure, including:

1. Underdrain layer beneath a liner system.

2. Pipe trenches associated with leachate collection or recirculation, and landfill gas collection systems.

3. The leachate drainage or protective layer above the liner.

4. The drainage layer in the final cover design for closure.

(b) Public works construction, including:

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1. Backfill material in an embankment or behind a retaining wall.
2. Subgrade base beneath pavement.
3. Rubber-modified asphalt using crumb rubber.

(c) Drainfield aggregate construction of subsurface sewage disposal systems or drains for groundwater/surface water diversion systems. The tire chips shall be protected from soil infiltration by a synthetic geotextile fabric.

(d) Others as may be approved by ADEM.

(3) The engineered use of processed tire material shall comply with all of the following standards:

(a) Processed tire material shall not be placed or discharged into waters of the state.

(b) The use will not adversely affect human health, public safety or the environment.

(c) Processed tire material shall not be used in a manner that constitutes disposal or is not in compliance with other ADEM regulations.

(d) Tire chips or tire shreds may not be used in an application where the thickness of a layer exceeds nine (9) feet.

(e) Uses approved by ADEM may be subject to approvals, standards or specifications imposed by other persons. The applicant and its engineer shall certify to ADEM that all other approvals or permits have been obtained prior to submittal of the Engineered Use Application. Approval for use by ADEM does not constitute approval for use by other persons or agencies.

(4) A person proposing to utilize processed tire material in a civil engineering application shall submit to ADEM an Engineered Use Application that provides details of the proposed use, and appropriate fees. The design and specifications shall be prepared by an engineer. The Engineered Use Application shall contain all of the following:

(a) The general location where project activities will take place to include either the $\frac{1}{4}$, $\frac{1}{4}$ Section, Township, and Range, or Global Positioning System coordinates, and a legal description of the property. The location shall be shown on a U.S. Geological Survey 7.5 minute quadrangle map.

(b) An affidavit from the property owner acknowledging the use or placement of processed tire material.

(c) Detailed plans and specifications of the engineered use.

(d) The approximate volume or weight of processed tire material to be used.

(e) The approximate periods of time during which the project will be conducted with estimated start and finish dates.

(f) The source of the processed tire material, and how the material will be stored prior to use. If processed tire material that may retain rainfall is to be stored more than seven (7) days and exposed to the elements, a Vector Control Plan shall be included in the application.

(5) The local fire marshal or fire chief shall be notified of the proposed engineered use of processed tire material.

(6) The following uses do not require an Engineered Use Application or notification to the local fire marshal or fire chief:

(a) Use of tire materials in construction or closure of a SWDF.

(b) Use as subgrade base or in rubber modified asphalt when installation is done in compliance with state or federal standards for highway construction.

(c) Use in a domestic on-site sewage disposal system approved by a County Health Department or ADPH.

(7) ADEM shall approve the Engineered Use Application before the activity may proceed. ADEM shall assign a project identification number that shall be used in all correspondence with ADEM.

(8) Following completion of the project, the owner or operator shall submit to ADEM certification signed by an engineer verifying that the project has been completed in accordance with the approved application.

(9) Use of whole tires or tire bales in engineered use applications may be subject to other provisions considered necessary by ADEM, or may require financial assurance for closure of the site.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-4-.04 Disposal in a SWDF. A SWDF permitted by ADEM under 335-13 does not have to obtain a new or different permit to accept tires for disposal if tires are an approved waste stream for that SWDF. Additional requirements for SWDF include:

(a) Tire materials transported to a SWDF for disposal shall be placed directly in the landfill cell.

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(b) A SWDF having a processor permit as a Class Four Processor may remove tires usable as used tires or casings for retreading and shall store the tires in accordance with 335-4-4-.02.

(c) Processed tire material delivered to a SWDF for engineered use shall not be stored within 200 feet of an active landfill cell, and shall be stored in accordance with 335-4-4-.02(2) except that an Emergency Response Plan is not required. There shall be no time limit for storage of processed tire material to be used in this manner.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-4-.05 Manifests. All scrap tire receivers, transporters, processors, and SWDF are required to use a written manifest for the movement, shipment, transportation or receipt of scrap tires and processed tire material, except as otherwise provided in 335-4-4-.05.

(a) General Requirements. The manifest shall be originated by the receiver or other person shipping the tire materials and shall identify the quantity of tire materials transported.

1. Each user of a manifest shall be responsible for obtaining the manifest form at their cost from a source producing the form which shall be similar to ADEM Form 536.

2. The manifest shall be a four-part, carbonless-paper form.

3. For shipments of scrap tires from another state to the State of Alabama, the receiver or transporter may use a manifest approved by the other state if the manifest contains all information required by ADEM.

4. ADEM may accept other documents in lieu of a manifest if the documents contain all information required on the manifest form, meets other requirements of 335-4-4-.05, and ADEM has approved use of the alternate document in writing.

5. If a person is shipping tires or tire materials that may be exempt from the requirements of 335-4-4-.05, that shipment shall be accompanied by sufficient paperwork and documentation to assure ADEM, its delegated enforcement officers and other law enforcement officers that the shipment is exempt from 335-4-4-.05.

6. A SWDF may receive scrap tires transported by a person permitted as a Solid Waste Collector or Transporter by a County Health Department without requiring a manifest if the tires are collected as part of a routine program of household waste collection. The SWDF may not accept tire

materials transported by a permitted Solid Waste Collector or Transporter who collects tires at a registered scrap tire receiver unless that person has also received a scrap tire permit to transport scrap tires.

(b) Receiver Requirements. A receiver who transports, or offers for transportation, more than ten (10) scrap tires per year for off-site processing or disposal shall complete a manifest for each shipment.

1. Class One Receivers are exempt from using a manifest when transporting their own scrap tires from one business location to another or between a customer site and the receiver.

2. Class One Receivers shall use a manifest when transporting their own scrap tires to a processor or SWDF.

3. A receiver shall designate on the manifest the next receiver, transporter, processor, SWDF, or final designated facility that will receive the scrap tires described on the manifest. The receiver may designate where or to whom the transporter shall deliver the scrap tires. If a transporter is unable to deliver the scrap tires to the next designated facility, the receiver generating the manifest shall either designate another facility or instruct the transporter to return the scrap tires to the receiver.

(c) Processor Requirements.

1. Processors Receiving Tire Materials.

(i) A processor shall not accept tire materials from a receiver or transporter unless accompanied by a manifest. This applies to all processing facilities receiving tire materials, including permitted processors, registered fuel user, registered manufacturers using tire materials or ground or crumb rubber to make other products, and registered users of tire materials as a substitute raw material.

(ii) A processor may accept scrap tires from an individual scrap tire generator without a manifest, provided the individual is transporting his own scrap tires and delivers no more than eight (8) tires at a time. The processor shall maintain records of receipt of tires from individuals in the Operating Record, and shall report those receipts separately when submitting quarterly reports to ADEM.

(iii) A processor may receive scrap tires without a manifest from recognized non-profit civic organizations, associations or clubs, and state, county or municipal governments who deliver scrap tires resulting from roadside, stream or other cleanup programs. The processor shall maintain records of receipt of tires from these groups in the Operating Record, and shall report those receipts separately when submitting quarterly reports to ADEM.

2. Processors Shipping Tire Materials.

(i) A processor shall not transport, or offer tire materials for shipment by a transporter, unless that shipment of tire materials is accompanied by a manifest originated by the processor.

(ii) Manifests are not required for a processor to transport tire materials on a public or private right-of-way within or along the border of contiguous property under the control of the processor, even if the contiguous property is divided by a public or private right-of-way.

(iii) Manifests are not required for a processor to ship its final end product produced from tire materials if that end product requires no further processing or is incorporated into another product.

(d) Transporter Requirements. No transporter shall accept tire materials unless that shipment is accompanied by a manifest prepared by the person offering the tire materials for shipment.

1. If the transporter places tire materials from more than one person offering the tire materials for shipment on a permitted vehicle, the transporter shall maintain individual manifests from each person and shall not combine scrap tires from different persons on one manifest except as provided in 335-4-4-.05(d)5.

2. Each shipment of tire materials shall be delivered to the next designated person or facility indicated on the manifest, or to an alternate person or facility designated on the manifest.

3. If the transporter is unable to deliver the tire materials to the next designated person or facility or the alternate person or facility, the transporter shall contact the person originating the shipment who shall either designate another facility or instruct the transporter to return the tire materials.

4. If the person originating the shipment of tire materials does not indicate on the manifest another designated person or facility to accept the tire materials from the transporter, the transporter may utilize the same manifest when selecting the next person or facility to accept the shipment. The person or facility to which the transporter delivers the tire materials shall complete the manifest according to 335-4-4-.05.

5. If a transporter acts as a processor and removes scrap tires from a shipment accompanied by a manifest, that transporter then becomes a processor and shall generate a new manifest to accompany the shipment of the remaining scrap tires. If the shipment of scrap tires that is affected by a transporter acting as a processor contains commingled scrap tires from more than one person or facility, all remaining scrap tires in that shipment are

considered to be generated by the transporter acting as a processor. The transporter acting as a processor shall complete an original manifest or manifests according to 335-4-4-.05.

(e) SWDF Requirements.

1. A SWDF shall not accept tire materials from a receiver or transporter unless accompanied by a manifest.

2. A SWDF may accept scrap tires from an individual scrap tire generator without a manifest, provided the individual is transporting his own scrap tires and delivers no more than eight (8) tires at a time. The SWDF shall maintain records of receipt of tire materials from individuals in the Operating Record, and shall report those receipts separately when submitting quarterly reports to ADEM.

3. A SWDF may receive scrap tires without a manifest from recognized non-profit civic organizations, associations, or clubs and state, county or municipal governments who deliver scrap tires resulting from roadside, steam or other cleanup programs. The SWDF shall maintain records of receipt of tire materials from these groups in the Operating Record, and shall report those receipts separately when submitting quarterly reports to ADEM.

(f) Use of the Manifest.

1. All signatures required on the manifest shall be a handwritten signature in ink.

2. The person originating a manifest shall obtain the printed name and signature of the next person accepting the shipment of tire materials on the manifest and retain one copy of the manifest. The remaining copies of the manifest shall accompany the shipment.

3. All subsequent persons accepting shipment of the tire materials shall print their name and sign the manifest and the previous person offering the shipment of tire materials shall retain a copy of the manifest. The original manifest shall accompany the subsequent shipment to its ultimate destination.

4. Once the shipment of tire materials has reached the final designated facility or SWDF, the manifest shall be signed with their printed name and a copy of the manifest retained by the person accepting the shipment. The completed manifest shall be returned by the SWDF or processor to the receiver initiating the shipment of tire materials once per month.

5. The manifest shall be made available to ADEM upon request.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - SCRAP TIRE PROGRAM**

**CHAPTER 335-4-5
SCRAP TIRE RECEIVERS**

TABLE OF CONTENTS

335-4-5-.01	General Requirements for Receivers
335-4-5-.02	Requirements for Storage
335-4-5-.03	Reporting
335-4-5-.04	Recordkeeping Requirements

335-4-5-.01 General Requirements for Receivers.

(1) A receiver shall not store tire materials in excess of the accumulation limit approved by ADEM. If the excess amount has not been eliminated within thirty (30) days of the date the accumulation limit was exceeded, the receiver shall notify ADEM and shall begin to remove the tire materials from the facility to a permitted processor or SWDF.

(2) No receiver may expose scrap tires to the elements for more than thirty (30) days. If scrap tires are exposed to the elements for more than seven (7) days, a Vector Control Plan shall be prepared and implemented.

(3) Receivers are required to use a permitted transporter to transport tires for disposal, for further processing, or for further evaluation by another business, except as provided in 335-4-5-.01(4).

(4) Class One receivers are not required to use a permitted transporter for purposes of transporting their tires or their customers' tires between their business locations or between a customer site and the receiver. Each vehicle operated by the receiver to transport scrap tires shall have a decal issued by ADEM, in accordance with 335-4-7-.02.

(5) Receivers shall utilize manifests and comply with requirements of 335-4-4-.05 for shipment of tire materials.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-5-.02 Requirements for Storage. All receivers shall comply with storage requirements in 335-4-4-.02. Facilities located in urbanized areas or other business locations with limited area may be exempt by ADEM from some siting and location requirements for storage if approved by ADEM on a case-by-case basis.

335-4-5-.02

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-5-.03 Reporting. A receiver shall submit a summary of the previous quarter activities to ADEM utilizing ADEM Form 539.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-5-.04 Recordkeeping Requirements. An operating record for the receiver shall be maintained at the facility or in an alternate location approved by ADEM.

(a) The following information shall be placed in the operating record as it becomes available:

1. Copies of the ADEM registration approval.
2. Registration application.
3. Appropriate information on all vehicles transporting tire materials, to include vehicle identification number, make/model, and license number, and decal numbers assigned to those vehicles.
4. Reports or documentation generated during the normal operation of the receiving facility including, but not limited to:
 - (i) Manifests of tires or tire materials received or shipped.
 - (ii) Quarterly Reports utilizing ADEM Form 539.
 - (iii) Arrangement for fire protection services, if applicable.
 - (iv) Any other report or document generated in the normal operation of the facility that is submitted to ADEM.
4. Electronic versions of records listed in 335-4-5-.04 may be maintained in the operating record as allowed in 335-4-1-.04(7).

(b) Information contained in the operating record shall be retained for at least three (3) years. Records relating to a violation or enforcement action shall not be removed from the operating record until these matters are resolved.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - SCRAP TIRE PROGRAM**

**CHAPTER 335-4-6
SCRAP TIRE PROCESSORS**

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335-4-6-.01	General Requirements for Processors
335-4-6-.02	Requirements for Storage
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335-4-6-.05	Mobile Processing Facilities
335-4-6-.06	Closure of Facilities

335-4-6-.01 General Requirements for Processors.

(1) A processor shall not store tire materials in excess of the accumulation limit approved by ADEM. If the excess amount has not been eliminated within thirty (30) days of the date the accumulation limit was exceeded, the processor shall notify ADEM and shall begin to remove the tire materials from the facility to a permitted processor or SWDF.

(2) A processor shall have all necessary processing equipment in operating condition prior to receiving scrap tires for processing.

(3) Processors shall utilize manifests and comply with requirements of 335-4-4-.05 for shipment of tire materials.

(4) Processors are required to maintain financial assurance according to 335-4-8.

(5) Fuel users and processors exempt in 334-4-3-.02 are subject to the requirements for processors in 335-4-6-.02, -.03, and -.04.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-6-.02 Requirements for Storage. A processor shall comply with storage requirements in 335-4-4-.02. Tire materials piles shall not be stored on asphalt pavement.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-6-.03

335-4-6-.03 Reporting. A processor shall submit a summary of the previous quarter activities to ADEM utilizing ADEM Form 539.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004

335-4-6-.04 Recordkeeping Requirements. An operating record for the processor shall be maintained at the facility or in an alternate location approved by ADEM.

(a) The following information shall be placed in the operating record as it becomes available:

1. Permit or exemption as issued by ADEM.
2. Permit or exemption application, operational narrative, and other documentation submitted to ADEM during the permitting process.
3. Closure Plan with cost estimates to implement the Closure Plan.
4. Financial Assurance documentation.
5. Reports or documentation generated during the normal operation of the processing facility including, but not limited to:
 - (i) Manifests of tire materials received or shipped.
 - (ii) Receipt of scrap tires without a manifest.
 - (iii) Quarterly Reports utilizing ADEM Form 539.
 - (iv) Arrangement for fire protection services, if applicable.
 - (v) Any other report or document generated in the normal operation of the facility that is submitted to ADEM.
6. Electronic versions of records listed in 335-4-6-.04 may be maintained in the operating record as allowed in 335-4-1-.04(7).

(b) All information contained in the operating record shall be retained for at least three (3) years. Records relating to a violation or enforcement action shall not be removed from the operating record until these matters are resolved.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-6-.05 Mobile Processing Facilities.

(1) A person operating mobile processing equipment shall obtain a permit from ADEM unless exempt in 335-4-2-.04(3)(a).

(2) A permittee utilizing equipment that is moved between sites or receivers shall notify ADEM in writing at least three (3) days prior to movement of the processing equipment to a different location. Each location where mobile processing occurs shall meet the minimum siting requirements found in the owner or operator's permit.

(3) All processed tire material shall be removed from the location for recycling, further processing, or disposal in a SWDF within thirty (30) days of processing. The owner or operator of the mobile processing equipment shall provide ADEM the name and address of each facility or SWDF that will receive the processed tire material for further use or disposal. Shipments of processed tire material shall be manifested in accordance with 335-4-4-.05, unless the processed tire material is placed in a solid waste container that is routinely emptied by a Solid Waste Collector permitted by a County Health Department. If the processed tire material is to be placed in a solid waste container, the processor shall provide the name of the SWDF that will receive the processed tire material for disposal and shall provide a letter from the SWDF stating acceptance of the processed tire material.

(4) Mobile processors shall maintain an operating record as required in 335-4-6-.04 at a location approved by ADEM.

(5) Owners or operators of mobile processing equipment shall report to ADEM each location where the equipment operated and the number of tires processed. The report shall be submitted by the twentieth day of each month for the previous month's operations. A report shall be filed even if the equipment was not utilized during the reporting month.

(6) If mobile processing equipment is to be operated at a location for more than 180 consecutive days, that location shall be considered a scrap tire processing facility and shall then meet the requirements in 335-4-6-.01 and -.02.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: XXXXXXXXXXXX XX, 2004.

335-4-6-.06 Closure of Facilities. Processors discontinuing their operations or those not meeting the requirements of 335-4-6 shall discontinue receiving tire materials and shall close the facility.

(a) The processor shall submit a Closure Plan to ADEM as a part of the permit application.

335-4-6-.06

(b) The Closure Plan shall provide for the following if applicable:

1. A narrative description of the closure process to be implemented and a schedule for closure.

2. Removal of all tire materials to a permitted processor, end user, or SWDF.

3. Removal of all other regulated solid waste accumulated at the facility for disposal through a permitted solid waste transfer station or in a SWDF.

4. A Vector Control Plan.

5. Restriction of access to preclude delivery of additional tire materials.

6. A plan for site remediation if a contaminant or other threat to public health or the environment resulting from routine operations or a fire or other emergency is identified.

7. An estimate of the cost to close the facility according to the Closure Plan.

(c) The Closure Plan shall be updated every three (3) years or when conditions change at the processor that may affect the current closure plan. The updated plan, the new closure cost estimate based on the revised closure plan, and an updated financial assurance instrument shall be submitted to ADEM for review.

(d) The processor shall notify ADEM in writing when all closure requirements have been implemented. If ADEM determines closure has been completed according to the Closure Plan, the financial assurance instruments shall be released within thirty (30) days.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: XXXXXXXXXXXX XX, 2004.

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - SCRAP TIRE PROGRAM**

**CHAPTER 335-4-7
SCRAP TIRE TRANSPORTERS**

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335-4-7-.04	Recordkeeping Requirements

335-4-7-.01 General Requirements for Transporters.

(1) A transporter shall only accept scrap tires or processed tire material from a registered receiver, a permitted processor, a SWDF or other persons approved by ADEM.

(2) Transporters may transport scrap tires or processed tire material to a registered receiver, a permitted or registered processor, a retreader or a SWDF.

(3) Transporters may only accept scrap tires or processed tire material manifested in accordance with 335-4-4-.05.

(4) Scrap tire transporters are required to maintain financial assurance in accordance with 335-4-8.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-7-.02 Decal Requirements. Vehicles operated by the transporter or receiver shall exhibit a decal issued by ADEM. The transporter or receiver shall maintain a list of decal assignments to specific vehicles, and may request new decals when additional vehicles are added.

(a) The decal shall be placed on each vehicle in the fleet and be clearly visible at all times. The decal shall be placed on the left side of the vehicle, either on the windshield or the side of the vehicle immediately behind the driver's side door.

(b) Numbered decals shall be provided by ADEM to the transporter who shall assign the decals to their vehicles. The transporter or receiver shall maintain a list of decals and the vehicle to which that decal is assigned. Decals are not transferable to another vehicle.

335-4-7-.02

(c) The transporter or receiver may paint or scribe in some manner the decal information of the side of the vehicle immediately behind the driver's side door if the information placed on the vehicle clearly provides all information on the ADEM decal. Letters and numbers placed on the vehicle in this manner shall be at least one (1) inch in height. Letters and numbers shall be enduring and not change appearance with time.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-7-.03 Reporting.

(1) A transporter shall submit a summary of the previous quarter activities to ADEM utilizing ADEM Form 539.

(2) If a permitted vehicle of the transporter is involved in a motor vehicle accident while transporting tire materials and tire materials are spilled, the transporter shall notify ADEM in writing within seventy-two (72) hours of the accident. The notification shall provide the following information:

(a) Date, time, and location of the accident.

(b) Amount of tire materials spilled from the vehicle involved in the accident.

(c) The disposition of spilled tire materials and tire materials remaining in or on the vehicle.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-7-.04 Recordkeeping Requirements. An operating record for the transporter shall be maintained at a facility located in Alabama or in an alternate location approved by ADEM.

(a) The following information shall be placed in the operating record as it becomes available:

1. The permit application and permit as issued by ADEM.

2. Financial Assurance or insurance documentation.

3. Appropriate information on all vehicles transporting tire materials, to include vehicle identification number, make/model, and license number, and decal numbers assigned to those vehicles.

4. Reports or documentation generated during the normal operation of the transporter including, but not limited to:

- (i) Manifests of tire materials transported.
- (ii) Quarterly Reports utilizing ADEM Form 539.
- (iii) Arrangement for fire protection services, if applicable.
- (iv) Accident reports.
- (v) Any other report or document generated in the normal operation of the facility that is submitted to ADEM.

5. Electronic versions of records listed in 335-4-7-.04 may be maintained in the operating record as allowed in 335-4-1-.04(7).

(b) All information contained in the operating record shall be retained for at least three (3) years. Records relating to a violation or enforcement action shall not be removed from the Operating Record until all these matters are resolved.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - SCRAP TIRE PROGRAM**

**CHAPTER 335-4-8
FINANCIAL ASSURANCE**

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335-4-8-.06	Use of Multiple Financial Assurance Instruments
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335-4-8-.01 Applicability.

- (1) Financial assurance shall be provided by the following persons:
 - (a) Permitted scrap tire transporters.
 - (b) Permitted Class One, Class Two and Class Three scrap tire processing facilities. Class Four Processors in 335-4-3-.03(b)4 are not required to provide financial assurance as a processor.
 - (c) If a permitted processor is also a permitted transporter, a separate and appropriate financial assurance instrument shall be posted for each permit and each separate facility for which the permittee applies.
- (2) A fuel user may be subject to 335-4-8 if it stores tire materials in excess of the accumulation limits in its registration approval.
- (3) Owners or operators of scrap tire facilities that are state or federal government entities, whose debts and liabilities are the debts and liabilities of the state or the United States, are not required to provide financial assurance.
- (4) If financial assurance instruments utilized by persons to comply with 335-4-8 provide that monies shall be directed to ADEM to use to close or remediate a scrap tire site or facility, those monies shall be deposited to the STF which shall be used for closure or remediation of the site or facility. If these funds are inadequate to close or remediate the site or facility, ADEM may recover costs as provided in 335-4-2-.03(g). Excess funds may be retained by the STF in 335-4-2-.03(g).

335-4-8-.01

(5) The form of financial assurance instruments shall be approved by ADEM.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-40A-1 et seq.

History: August 4, 2004.

335-4-8-.02 Transporters.

(1) Any person proposing to transport scrap tires or processed tire material shall submit with its permit application evidence of financial assurance using one of the following:

(a) A surety bond in which the applicant is the principal obligor and ADEM is the obligee.

1. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury or be a corporate surety licensed to do business in the State of Alabama.

2. The amount of the surety bond for environmental cleanup and restoration resulting from a transportation-related accident or event shall be established as follows:

(i) Transporters proposing to transport tire materials shall be required to provide a surety bond in an amount equal to \$10,000.

(ii) If the surety bond is drawn upon, the transporter shall notify ADEM within twenty-four (24) hours, and shall acquire additional financial assurance in the amount of \$10,000 within five (5) days of the surety bond being drawn. If the permittee fails to provide the additional assurance as required, ADEM may terminate the permit as prescribed in 335-4-3-.06(c).

(b) A person proposing to transport tire materials may submit evidence satisfactory to ADEM of a net worth equal to ten times the value of the a surety bond required in 335-4-8-.02(1)(a). The evidence shall be submitted with a letter from the chief financial officer of the applicant.

(c) Proof of insurance in a minimum amount of \$1,000,000 to abate any problems created as a result of the transporter's failure to properly manage scrap tires, exclusive of legal defense costs. The insurance may not include a pollution exclusion clause. Proof of insurance shall be provided on a Certificate of Insurance form naming ADEM as the certificate holder and giving at least thirty (30) days written Notice of Cancellation to the certificate holder.

(2) A transporter shall demonstrate to the satisfaction of ADEM that the financial instrument submitted with their application as required in 335-4-3-.04 is in force for the duration of the permit. Nothing in 335-4-8-.02 shall be construed to allow a transporter to operate in violation of the U.S. Department of Transportation rules governing financial assurance.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-8-.03 Processors.

(1) The owner or operator of a scrap tire processing facility shall provide financial assurance equal to the sum of the amounts required in 335-4-8-.03(2) and (3) for the following:

(a) Closure of the scrap tire processing facility.

(b) Remediation of the facility if impacted by an incident, such as a fire or a catastrophic natural event, such as a flood, that may affect human health and the environment.

(2) Cost Estimate for Closure. The owner or operator shall have a detailed written estimate, in current dollars, of the cost to utilize a third party to complete closure of the processing facility during the active life in accordance with the Closure Plan in 335-4-6-.06. The owner or operator shall submit a copy of the estimate to ADEM as a part of the permit application for approval and retain the estimate in the operating record.

(a) The cost estimate shall equal the cost to remove, transport and process the largest volume of tire materials present and the cost to remove the contents and cleanup tanks, process equipment or other appurtenances during the active life of the facility when the extent and manner of its operation may make closure the most expensive.

(b) During the active life of the facility, the owner or operator shall annually adjust the closure cost estimate for inflation.

(c) The closure cost estimate and the amount of financial assurance provided shall be increased if changes to the facility or its operation increase the maximum cost of closure.

(d) The owner or operator of a processing facility shall establish financial assurance for closure in compliance with 335-4-8-.04 and shall maintain continuous coverage until released from financial assurance requirements by ADEM.

335-4-8-.03

(e) The minimum financial assurance for closure of a permitted scrap tire processing facility shall be \$20,000.

(3) The owner or operator shall provide financial assurance for remediation of an incident, such as a fire or flood or other catastrophic natural event that impacts public health and the environment, based on the following:

(a) An amount equal to two dollars (\$2) per whole tire for the maximum number of tires allowed to be stored at the facility. ADEM may require a higher amount per whole tire if it determines the types of tires being processed are larger than typical passenger and light truck tires.

(b) An amount equal to \$200 per ton of processed tire material allowed to be stored at the facility.

(4) If whole tires and processed tire material are stored at a facility at the same time, the amount of financial assurance required shall equal the total in 335-4-8-.03(3)(a) and (b).

(5) The minimum financial assurance required for remediation at a permitted scrap tire processor shall be \$20,000.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-8-.04 Financial Assurance Instruments for Closure. The following instruments may be used to provide financial assurance for closure. The instruments selected shall ensure that the funds necessary to meet the costs of closure will be available whenever needed. The instruments must be in effect for a new facility at least sixty (60) days prior to receiving tire materials for processing, and must be in effect for an existing facility when it submits a permit application in 335-4-3-.04.

(a) Trust Fund. An owner or operator may establish a trust fund that conforms to the following requirements:

1. The trustee shall be an entity that has the authority to act as a trustee and whose trust operations are examined by the State of Alabama.

2. Payments into the Trust.

(i) The owner or operator shall make a payment into the trust fund each year during the pay-in period.

(ii) The pay-in period is five years. The pay-in period commences on the date the facility first receives scrap tires or processed tire material.

(iii) Annual payments are determined by the following formula:

Annual payment = $(CE-CV)/Y$ where:

CE = Current cost estimate

CV = Current value of the trust fund

Y = Number of years remaining in the pay-in period.

(iv) The owner or operator shall make the first annual payment prior to the beginning of the pay-in period. Prior to the beginning of the pay-in period, the owner or operator shall submit to ADEM a receipt from the trustee for the first annual payment.

(v) Subsequent annual payments shall be made no later than thirty (30) days after each anniversary of the first payment.

(vi) The owner or operator may accelerate payments into the trust fund, or deposit the full amount of the current cost estimate at the time the fund is established.

(vii) If the owner or operator establishes a trust fund after having used one or more alternative instruments, the first payment shall be at least equal to the amount the fund may contain if the trust fund were established initially and payments made as provided in 335-4-8-04(a)3.

3. The trustee shall evaluate the trust fund annually, as of the day the trust was created. The trustee shall notify the owner or operator and ADEM of the value within thirty (30) days after the evaluation date.

(i) Whenever the current closure cost estimate exceeds the amount of the trust fund, the owner or operator, within sixty (60) days after the new estimate, shall either cause the amount of the trust fund to be increased to equal the current closure cost estimate and submit evidence of the increase to ADEM, or obtain other or additional financial assurance as specified in 335-4-8-.04 to meet the current closure cost estimate.

(ii) Whenever the current closure cost estimate is less than the trust fund amount, the trust fund may be reduced accordingly with ADEM approval.

4. Release of Excess Funds.

(i) If the value of the financial assurance is greater than the current cost estimates for closure, the owner or operator may submit a written request to ADEM for a release of the amount in excess of the current cost estimate.

(ii) Not later than sixty (60) days after receiving a request from the owner or operator for a release of funds for which the value of the financial

assurance instrument is greater than the current closure cost estimate, ADEM shall instruct the trustee in writing to release to the owner or operator the funds to be in excess of the current cost estimates.

5. Reimbursement for Closure Expenses.

(i) After initiating closure, an owner or operator, or another person allowed to perform closure, may request reimbursement for work performed by submitting itemized invoices to ADEM.

(ii) Not later than sixty (60) days after receiving the itemized invoices, ADEM shall determine if the expenditures are consistent with the approved Closure Plan. If the expenditures are in accordance with the approved Closure Plan, ADEM shall instruct the trustee in writing to make reimbursement in the amounts specified for work performed.

(iii) If ADEM determines that the cost of closure will be greater than the value of the trust fund, it shall withhold reimbursement of the amount it determines is necessary to preserve the trust corpus in order to accomplish closure until it determines that the owner or operator is no longer required to maintain financial assurance for closure.

(iv) If the owner or operator is named as a debtor in a voluntary or involuntary proceeding under the U.S. Bankruptcy Code, the trustee shall release all trust fund monies to ADEM for the purpose of completing required closure activities. In the event the bankruptcy proceeding results in the liquidation or dissolution of the assets of the owner or operator, any funds so released which remain upon completion of all required closure activities may be used by ADEM at other STF sites in the state.

(b) Letter of Credit. An owner or operator may obtain an irrevocable standby letter of credit which conforms to the following requirements:

1. The issuing institution shall be an entity that has the authority to issue letters of credit and whose operations are regulated and examined by a federal or state agency.

2. An owner or operator who uses a letter of credit shall also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by ADEM will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from ADEM. This standby trust fund shall meet the requirements in 335-4-8-.04(a), except:

(i) An originally signed duplicate of the trust agreement shall be submitted to ADEM with the letter of credit; and

(ii) The initial payment and subsequent annual payments specified in 335-4-8-.04(a)3. are not required.

3. The letter of credit shall be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution and date, and provide the ADEM Permit Number, name, and address of the facility, and the amount of funds assured for closure of the facility.

4. The letter of credit shall be irrevocable and issued for a period of at least one (1) year in an amount at least equal to the current closure cost estimate. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and ADEM by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when the owner or operator and ADEM have received the notice, as evidenced by return receipts.

5. Whenever the current closure cost estimate exceeds the amount of the credit, the owner or operator, within sixty (60) days after the new estimate, shall either cause the amount of the credit to be increased to equal the current closure cost estimate and submit evidence of the increase to ADEM, or obtain other or additional financial assurance as specified in 335-4-8-.04. Whenever the current closure cost estimate is less than the amount of the credit, the letter of credit may be reduced following approval by ADEM.

6. After all administrative and judicial remedies have been exhausted in which a determination has been made that the owner or operator has failed to perform in accordance with the approved Closure Plan and other permit requirements when required to do so, ADEM may draw on the letter of credit.

7. If the owner or operator does not establish alternate financial assurance as specified in 335-4-8-.06 and obtain approval of the alternate assurance from ADEM within ninety (90) days after receipt by both the owner or operator and ADEM of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, ADEM will draw on the letter of credit. ADEM may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last thirty (30) days of an extension ADEM will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in 335-4-8-.04 and obtain approval of the assurance from ADEM.

8. ADEM will return the letter of credit to the issuing institution for termination when one of the following is accomplished:

(i) An owner or operator substitutes alternate financial assurance as specified in 335-4-8-.06; or

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(ii) ADEM releases the owner or operator from the requirements in accordance with 335-4-8-.07.

(c) Closure Insurance. An owner or operator may obtain closure insurance which conforms to the following requirements:

1. The insurer shall be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer in the State of Alabama.

(i) The use of insurance to demonstrate financial assurance for closure pertains exclusively to those insurance policies underwritten by commercial property and casualty insurers (primary or excess and surplus lines), each having a Standard and Poor's Insurer Financial Strength Rating of 'BBB' or higher, through which, in the insurance contract, the financial burden for closure is transferred to the third-party insurer. Except as provided in 335-4-8-.07, the third-party insurer shall assume financial responsibility for this accepted risk, using its own pool of resources that is independent, separate, and unrelated to that of the insured owner or operator.

(ii) The use of insurance policies underwritten by captive insurers is prohibited.

2. The closure insurance policy shall be issued for a face amount equal to the current closure cost estimate. There shall be no policy deductible. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

3. The closure insurance policy shall guarantee that funds will be available to close the facility whenever closure occurs. The policy shall also guarantee that once closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of ADEM, to the party or parties as ADEM specifies in writing.

4. After beginning closure, an owner or operator or another person allowed to conduct closure may request reimbursements for closure expenditures by submitting itemized bills to ADEM. Within sixty (60) days after receiving itemized invoices, ADEM shall determine if the expenditures are consistent with the approved closure plan. ADEM shall instruct the insurer in writing to make reimbursements in the amounts ADEM specifies. If ADEM believes that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, ADEM may instruct the insurer to withhold reimbursements of the amounts as the insurer considers prudent until ADEM determines in accordance with 335-4-8-.07 that the owner or operator is no longer required to maintain financial assurance for closure of the facility. If ADEM does not instruct the insurer to make the

reimbursements, ADEM will provide the owner or operator with a statement of reasons.

5. The owner or operator shall maintain the policy in full force and effect until ADEM consents to termination of the policy in accordance with 335-4-8-.07. Failure to pay the premium without substitution of alternate financial assurance as specified in 335-4-8-.06 will constitute a violation of 335-4-. The violation will be considered to begin upon receipt by ADEM of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

6. Each policy shall contain a provision allowing assignment of the policy to a successor owner or operator. The assignment may be conditional upon consent of the insurer, provided the consent is not unreasonably refused.

7. The policy shall provide that the insurer may not terminate, cancel or not renew the policy except for failure to pay the premium. The automatic renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to terminate, cancel or not renew the policy by sending notice by certified mail to the owner or operator and ADEM. Cancellation, termination, or non-renewal may not occur, however, during the 120 days beginning with the date of receipt of the notice by both ADEM and the owner or operator, as evidenced by return receipts. Cancellation, termination, or non-renewal may not occur and the policy will remain in full force and effect in the event that, on or before the date of expiration:

(i) ADEM considers the facility abandoned; or

(ii) The permit is terminated or revoked or a new permit is denied;

or

(iii) Closure is ordered by ADEM or a court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

8. Whenever the current closure cost estimate exceeds the face amount of the policy, the owner or operator, within sixty (60) days after the new estimate, shall either cause the face amount to be increased to the current closure cost estimate and submit evidence of the increase to ADEM, or obtain other or additional financial assurance as specified in 335-4-8-.06. Whenever

335-4-8-.04

the current closure cost estimate is less than the face amount, the policy face amount may be reduced following approval by ADEM.

9. ADEM will give consent to the owner or operator that it may terminate the insurance policy when:

(i) An owner or operator substitutes alternate financial assurance as specified in 335-4-8-.06; or

(ii) ADEM releases the owner or operator in accordance with 335-4-8-.07.

(d) Surety Bond Guaranteeing Payment or Performance. An owner or operator may obtain a performance or surety bond which conforms to the following requirements:

1. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

2. The penal sum of the bond shall be in an amount equal to the current closure cost estimate and shall guarantee that funds will be available to close the facility whenever closure occurs.

3. Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond or when ADEM determines that the bond amount is necessary to pay for closure.

4. If the bond is called, the owner or operator shall establish a standby trust fund that meets the requirements of 335-4-8-.04(a) except the requirements for initial payment and subsequent annual payments specified in 335-4-8-.04(a)3. Payments made under the terms of the bond will be deposited by the surety directly into the standby trust fund in accordance with instructions from ADEM. Payments from the trust fund shall be approved by the trustee and ADEM. Any forfeiture money remaining after completion of closure shall be returned to the surety.

5. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner and operator and to ADEM 120 days in advance of cancellation. If the surety cancels the bond, the owner or operator shall obtain alternate financial assurance as specified in 335-4-8-.06.

6. The owner or operator may cancel the bond only if alternate financial assurance is substituted as specified in 335-4-8-.06 or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with 335-4-8-.07.

7. Whenever the current closure cost estimate exceeds the penal sum of the bond, the owner or operator, within sixty (60) days of the new estimate, shall cause the penal sum of the bond to be increased to the current closure cost estimate and submit evidence of the increase to ADEM or obtain other financial assurance as specified in 335-4-8-.06 to meet the current closure cost estimate.

8. Failure of the owner or operator to report an increase in the current closure cost estimate shall be grounds for revocation of the processor permit.

9. ADEM may decrease the penal sum of the bond if the owner or operator adequately demonstrates to ADEM that the penal sum exceeds the current closure cost estimate. Penal sum reduction is not mandatory if the sum exceeds the estimate. ADEM shall consider the following to determine the penal sum of the bond:

(i) The current closure cost estimate submitted by an applicant for a scrap tire processor permit.

(ii) The 30-day supply capacity submitted as part of an application for a scrap tire processor permit.

(e) For transporters and processors of scrap tires permitted or licensed under the authority of Code of Ala. 1975, §§22-40-01 to 22-40-11 (promulgated pursuant to Act 1999-597 and 2001-976 and repealed by Act 2003-332) on the effective date of 335-4, financial assurance instruments shall be in effect on the date a permit application is submitted to ADEM in 335-4-3-.04.

(f) Self-insurance. Only agencies of the State of Alabama or the U.S. Government may qualify for self-insurance.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-8-.05 Financial Assurance Instruments for Remediation. The owner or operator of a scrap tire processing facility may utilize the following instruments to provide financial assurance for remediation. The instruments used to demonstrate financial assurance shall ensure that the level of financial assurance in 335-4-8-.03(3) will be available whenever they are needed.

(a) Trust Fund. An owner or operator may establish a trust fund conforming to the requirements of 335-4-8-.04(a).

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(b) Letter of Credit. An owner or operator may obtain an irrevocable standby letter of credit conforming to the requirements of 335-4-8-.04(b).

(c) Insurance. An owner or operator may obtain remediation insurance conforming to the requirements of 335-4-8-.04(c).

(d) Surety Bond. An owner or operator may obtain a surety bond conforming to the requirements of 335-4-8-.04(d).

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-8-.06 Use of Multiple Financial Assurance Instruments. An owner or operator may satisfy the requirements of 335-4-8-.03 to .05 by establishing more than one financial instrument per site. These instruments are limited to trust funds, letters of credit and surety bonds.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-40A-1 et seq.

History: August 4, 2004.

335-4-8-.07 Release of Financial Institution. ADEM shall release a trustee, bank, surety or other financial institution when either of the following occur:

(a) An owner or operator substitutes alternative financial assurance so that the total financial assurance for the facility is equal to or greater than the current cost estimate for closure and remediation, without counting the amounts to be released.

(b) ADEM releases the owner or operator from the requirements of 335-4-8-.02 and .03 following completion of closure or remediation.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - SCRAP TIRE PROGRAM**

**CHAPTER 335-4-9
DELEGATION OF COUNTY ENFORCEMENT PROGRAMS**

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335-4-9-.01 **Delegation Procedures.** A County Commission may request delegation for enforcement of the Act and 335-4.

(a) The application for delegation shall include a resolution adopted by the County Commission in a regularly scheduled meeting of the County Commission stating the Commission's desire for delegation.

(b) Execution or approval of a delegation agreement by ADEM does not entitle the County to receive STF monies dedicated to county enforcement activities.

(c) The delegation application shall provide information on how the County Commission will enforce the Act and 335-4. ADEM shall provide the information it has to the County Commission on all registered receivers, registered sites containing more than 100 scrap tires, known illegal tires sites, permitted transporters and processors. The application shall include:

1. A County Scrap Tire Enforcement Plan, which includes:

(i) Number of new and used tire dealers in the county.

(ii) Number of scrap tire processors in the county.

(iii) Location of known illegal scrap tire piles and an estimate of the total number of scrap tire sites in the county.

(iv) Estimated personnel to conduct the enforcement program, position descriptions of these persons, and estimated man-hours committed per year per person.

(v) Estimated annual cost of scrap tire enforcement activities.

(vi) Procedures to perform the duties listed in 335-4-9-.02.

(vii) Procedures for tracking and reporting scrap tire enforcement activities to ADEM.

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2. A list of personnel who will act as county enforcement officers and their qualifications to act in this manner.

3. A description of all County scrap tire activities and how the County will conduct independent inspections of its operations.

(d) ADEM shall review the delegation application and provide comments or questions to the County Commission. The County Commission will have thirty (30) days to respond to ADEM. Once ADEM has determined that a delegation agreement can be prepared, it shall submit a draft of the agreement to the County Commission for review.

(e) The delegation agreement shall specify the following, at a minimum:

1. Investigation and reporting procedures to be utilized, and duties of the county enforcement program.

2. ADEM activities to audit performance and success of the county enforcement program.

3. The term of the delegation agreement shall not exceed three (3) years from the date of execution by ADEM of the final Delegation Agreement.

(f) The County Commission shall provide comments on the draft delegation agreement to ADEM within thirty (30) days of receipt. Upon resolution of all comments, ADEM shall submit the final Delegation Agreement to the County Commission for approval and execution in a regularly scheduled meeting of the County Commission. Once executed the agreement shall be returned to ADEM for signature by the Director.

(g) If the County Commission desires to extend the Delegation Agreement, it shall submit an application to extend at least ninety (90) days prior to the expiration of the agreement. The application to extend shall update information or data that may be different from the original delegation application.

(h) If ADEM determines through an audit of the county enforcement program that there are deficiencies in the program, ADEM shall notify the County Commission of its findings and methods for the county to return to an acceptable enforcement program. If the County Commission does not address the findings of deficiency, ADEM may revoke the Delegation Agreement. ADEM shall notify the County Commission of its intention to revoke the Delegation Agreement at least thirty (30) days prior to revoking the Delegation Agreement. Actions by ADEM to revoke the Delegation Agreement are subject to appeal in accordance with ADEM Admin. Code 335-2.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.

335-4-9-.02 Duties. Enforcement officers of delegated counties shall be accorded the authority to implement the provisions of 335-4 when conducting inspections or reviewing records for compliance with 335-4 and the Act. County enforcement officers shall perform all of the following duties:

- (a) Investigate illegal dumping of scrap tires.
- (b) Investigate reports and complaints regarding scrap tires in the county.
- (c) Inspect tire dealers, receivers, and transporters, to include:
 - 1. Manifests of scrap tire shipments.
 - 2. Registration of the receiver with ADOR for payment of the Scrap Tire Environmental Fee.
 - 3. Scrap tire accumulation and storage areas.
 - 4. Transporter decals as prescribed by ADEM.
 - 5. Operating record.
- (d) Inspect permitted scrap tire processors, to include:
 - 1. Manifests of scrap tire shipments.
 - 2. Scrap tire accumulation and storage areas.
 - 3. Operating record.
- (e) Provide comprehensive investigation reports to ADEM within ten (10) days of the initial investigation or inspection.
- (f) Take legal actions to enforce 335-4 as allowed in the Act.
- (g) Provide Quarterly Reports to ADEM on all scrap tire activities within that quarter on a form provided by ADEM. The Quarterly Report shall be submitted to ADEM not later than the twenty-eighth day of the month following the end of the quarter.
- (h) Investigation reports and Quarterly Reports shall be submitted electronically to TireMail@adem.state.al.us by the county enforcement program.

Author: James L. Bryant.

Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.

History: August 4, 2004.