ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - SCRAP TIRE PROGRAM
ADMINISTRATIVE CODE

CHAPTER 335-4-1
GENERAL PROVISIONS

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335-4-1-.01 Applicability.

These rules 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 in 335-4-1-.02.
Author: James L. Bryant, M. Gavin Adams, Adam N. Rhodes
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335-4-1-.02 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 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 Ala. 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) Beneficial Use of Processed Tire Material - the processed scrap tire material should meet all of the following conditions:

1. It must provide a functional benefit;

2. It must substitute for the use of a virgin material, conserving natural resources that would otherwise need to be obtained through practices, such as extraction;

3. It must meet relevant product specifications, regulatory standards or design standards when available, and when such standards are not available, the processed tire material is not used in excess quantities.

(f) 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.

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

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

(i) 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.

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

(k) Department or ADEM- the Alabama Department of Environmental Management as established by Code of Alabama, 1975, §22-2-1 or its successor organization having similar responsibility.

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

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

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

(o) 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.

(p) 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, enforcement officers under the supervision of the County Enforcement Officer, and persons authorized by law or regulation to enforce the Act and/or 335-4.

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

(r) Final Designated Facility - a person, as defined in 335-4-1-.02, indicated on a manifest as the last, or ultimate, recipient of the scrap tires or processed tire material to be recycled, reused or disposed.

(s) 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.

(t) 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.

(u) 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.

(v) Innocent Landowner - one who meets all of the conditions of either 335-4-1-.02(v)(1) or 335-4-1-.02(v)(2):

1. an owner of real property upon which there is located an accumulation of scrap tires

(i) The scrap tires were disposed of on the property after the owner acquired title to or obtained financial interest in the property, or the scrap tires were disposed of before the owner acquired title to the property and the owner lacked actual knowledge of the waste after conducting reasonable due diligence or title was acquired by intestate succession or devise.

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

(iii) The owner did not participate in or consent to the disposal of scrap tires on the property.

(iv) The owner did not receive any financial benefit from the disposal of scrap tires on the property.

(v) Title to the property was not transferred to the owner for the purpose of evading liability for operating an unauthorized accumulation of scrap tires.

(vi) The person or persons responsible for disposing of the scrap tires on the property, in doing so, was not acting as an agent for the property owner or interest holder.

2. The State of Alabama shall be considered an innocent landowner for properties it owns or holds upon which scrap tires are disposed in which disposal the State did not participate nor to which the State consented.

(w) Limited-Use Transporter Permit – a transporter permit that is valid for no longer than ninety (90) days and is only for the remediation of scrap tire sites or as approved by the Department.

(x) 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 final designated facility.

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

(z) 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.

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

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

(cc) Permitted Processor – a person engaged in the processing of tires, as defined in 335-4-1-.02, that has received the proper permit from ADEM. A retreader or sorter is not considered a processor.

(dd) Permitted Transporter – a person who has received the proper transporter permit from ADEM.

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

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

(gg) Processing – for purposes of tire processing, the term includes any of the following activities related to pneumatic tires:

1. The compression and binding of whole tires or processed tire material or baling.

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

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

4. 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.

(hh) 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.

(ii) Registered 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.

(jj) 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.

(kk) Remediation – this term is synonymous with "cleanup."

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

(mm) 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/registration 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, §10A-5A-1.02(2014) et seq, as amended.

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.

(nn) Responsible Party or Responsible Person- with respect to the remediation of any accumulation of scrap tires on any property, a person who meets one or more of the following conditions:

1. A person who deposited the scrap tires on the property, if other than the person who holds the title to or has a financial interest in the property.

2. A person who holds title to or has a financial interest in the property, and who does not qualify as an innocent landowner.

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

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

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

(rr) 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.

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

(tt) 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.

(uu) 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.

(vv) 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.

(ww) 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.

(xx) Solid Wastes and Recyclable Materials Management Act - Chapter 27 of Title 22, Code of Ala. 1975, as amended.

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

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

(aaa) 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.

(bbb) 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.

(ccc) Tire Dealer – a person engaged in the sale of tires to the consumer, whether or not mounted on a rim or wheel.

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

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

(fff) 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.

(ggg) 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 current National Fire Protection Association guidelines (including Chapter 33-34 and any other applicable chapters) for storage of rubber tires, 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.

(hhh) Vector - any organism that functions as a carrier of an infectious agent between organisms.

(iii) 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.

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

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335-4-1-.03 Communications With The Department.

(1) All correspondence such as: applications, registrations, certifications, and permits along with any supporting documentation including payment of any fees, as defined in 335-1, shall be completed and submitted electronically via the Department-approved electronic system.

(2) All applications, reports required by permits or registrations, or other information requested by ADEM shall be signed and completed electronically by a responsible official or by a duly authorized representative.

(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.

(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-.03(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-.03(3).

(c) The receipt date for an electronic submittal 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) All fees may be submitted electronically as provided by the Department.

(e) All governmental organizations, whether federal, state, or other local governing bodies, shall be exempt from the payment of the Scrap Tire Environmental Fee. These organizations shall comply with all provisions of these rules regarding the storage, transport, processing, cleanup, and disposal of scrap tires.

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335-4-1-.04 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, Code of Ala. 1975, §22-22A-1 et seq.
Author: James L. Bryant, M. Gavin Adams, Adam N. Rhodes.
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335-4-1-.05 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) Tires used on medical and health care devices, such as wheelchairs, gurneys, battery-assisted transportation devices and others as may be exempted under 335-4-1-.05(3)(d).

(d) 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, whether or not the tires are mounted on a rim or wheel, 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.

(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 may be required to contain all of the following, but at a minimum shall be required to contain (c), (d), (e) and (f) below:

(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 larvicides and adulticides, and a schedule of the treatments.

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

(f) A legible log of the dates that the pest control operator, or other designated person, applied preventative treatments to scrap tires exposed to the elements.

(6) Inspection of Facilities or Vehicles.

(a) A receiver, processor, fuel user, processor exempt in 335-4-3-.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.

(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 within 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. All required documents shall be made available in a format acceptable to the Department upon request.

(8) The Department may grant variances to these rules in accordance with 335-4-11.
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