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

# 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 as defined in 335-4-1-.02.

(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) Unless approved in advance by ADEM or the scrap tire site meets the requirements outlined in 335-4-2-.01(6), a person remediating a scrap tire site, whether on their own initiative or at the direction of ADEM, must submit a Remediation Plan prepared by an engineer which must be used to direct remedial actions.

(5) If required by ADEM, the Remediation Plan must be approved by ADEM prior to initiating action, and must include 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 may be required to be removed in the same manner.

(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, if required.

(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. The method or methods of securing the site shall be approved by ADEM.

(e) Estimated cleanup amounts along with the methods to remediate the site and to remove scrap tires and other wastes, to include:

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

2. An estimate of the type and quantity 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 or legal property owner 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 landowner or the landowner's duly authorized representative who chooses to personally remove scrap tires or scrap tire material from a scrap tire site shall obtain a limited-use transporter permit, as defined in 335-4-1-.02, from ADEM to transport them to a permitted scrap tire processor or SWMF.
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**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. Sites with greater than 25,000 tires shall qualify as large sites and sites with 25,000 tires or less shall qualify as small sites. Large sites and small sites shall be ranked separately utilizing the factors set out below.

(a) Large Scrap Tire Sites. The following factors shall be considered in determining priority ranking or large sites:

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.

(i) Greater than 3,000,000.

(ii) Greater than 1,000,000.

(iii) Greater than 250,000.

(iv) Greater than 25,000.

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 scrap tire pile.

(iii) Inadequate fire lanes.

(iv) Inadequate access control.

(b) Small Scrap Tire Sites. The following factors shall be considered in determining priority ranking of small sites.

1. Human and animal infection or disease, including:

(i) The presence of an infection or disease as reported by ADPH or CDC, in the form of West Nile Virus, Eastern Equine Encephalitis, or other infection or disease as determined by ADPH or CDC, as follows:

(I) West Nile Virus.

(II) Eastern Equine Encephalitis.

(III) Other infection or disease.

2. Estimated Quantity of Scrap Tires.

(i) Greater than 15,000 to 25,000.

(ii) Greater than 5,000.

(iii) Greater than 1,000.

(iv) 1,000 or less.

3. Proximity of a Scrap Tire Site to:

(i) Schools, hospitals and nursing homes.

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

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

4. Fire Hazards.

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

(ii) Location and composition of scrap tire materials piles.

5. Other factors.

(c) Mixed Waste Sites. In the case of sites with mixed wastes, the following may apply:

1. Sites with mixed wastes may be determined to be ineligible for cleanup utilizing the STF if scrap tires and tire materials are a small percentage of wastes present. The STF may be utilized to clean up the entire site, only the portion of the site that contains tires/ tire materials, or only the tires/tire materials present.

2. Sites with mixed waste may be given lower priority for cleanup than other scrap tire sites.

3. Sites for which the STF has been utilized to perform a previous cleanup may be given lower priority than other sites. Utilizing STF funds for cleanup of a site that was previously remediated utilizing the STF will be at the discretion of ADEM, and may be determined to be the responsibility of the landowner.

(d) For small sites, the Department may utilize processes available under state law for contractor selection and contract execution.

(e) The Department may, at its discretion, apply any or all provisions of 335-4 relating to large site cleanups to any small site cleanup.

(f) ADEM shall review the site ranking and adjust the scrap tire site cleanup priority list at intervals determined by the Department. 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.

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**335-4-2-.03 Scrap Tire Fund.**

The STF may be used by the Department 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 occurs:

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

2. The responsible party has been identified and refuses to remediate the site.

(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 complete 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.

4. Remove other wastes or impediments to cleanup, if required.

5. Comply with the regulatory requirements of 335-4.

(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.

(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 as described in 335-4-2-.03(b) through a civil action in circuit court.

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**335-4-2-.04 Remediation Contracting.**

(1) Approved Contractors List.

(a) For large sites, 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, and any other documents as may be required by ADEM, that they have adequate staff and resources to perform scrap tire site remediation and that they have the legal standing to perform the work. 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 place a notice on the Department's website requesting technical proposals from prospective remediation contractors.

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 intervals determined by ADEM 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 as described 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. Contractors will be notified in writing if they are approved.

(d) A remediation contractor may lose authorization to perform work under the Scrap Tire Fund if either of the following occurs:

1. The contractor is determined to be in significant noncompliance with any environmental permit, regulation, or statute; or

2. The contractor fails to meet applicable requirements of public contracts executed on behalf of the State of Alabama and its agencies, as determined by the Department.

(e) 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 regard to the services provided by the contractor or circumstances which may occur as a result of

the services, nor guarantee that the contractor will receive STF funded work.

(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, as described in 335-4-1-.03, one (1) set of its Remediation Plan, prepared in accordance with 335-4-2-.01(5) 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 for the contractor to be reimbursed for all costs associated with those activities.

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