

ALABAMA DEPARTMENT OF PUBLIC HEALTH
ALABAMA STATE COMMITTEE OF PUBLIC HEALTH
ADMINISTRATIVE CODE

CHAPTER 420-3-5
SOLID WASTE COLLECTION AND TRANSPORTATION

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420-3-5-.01 Purpose.

The purpose of these rules is to regulate the collection and transportation of solid waste, excluding medical waste and hazardous waste, protect the public's health and the environment by regulating the permitting of certain solid waste collectors, transporters, and their equipment; the permitting of certain transfer stations; the issuance of Certificates of Exception; the facilitation of a solid waste collection fee exemption; the storage of solid waste; and the abatement of public health nuisances created by unauthorized dumps.

Author: Phyllis C. Mardis; Matthew Conner; Ken Stephens; Thad Pittman

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420-3-5-.02 General.

(1) As used in these rules, words in the masculine gender also include the feminine and neuter genders, words in the singular include the plural, and words in the plural include the singular.

(2) Each person who generates solid waste, in addition to adhering to all local ordinances, resolutions, laws, or rules pertaining to solid waste, shall provide for the effective and nuisance-free handling of his own solid waste in accordance with the requirements of these rules.

(a) The handling and disposal of solid waste shall be accomplished in a manner that will prevent the creation of public health nuisances, insanitary conditions, or health hazards, and that complies with the requirements of these rules.

(b) In determining whether a solid waste or the management thereof, constitutes a nuisance or an endangerment to public health, the Board shall consider the quantity, composition, and location of the solid waste, the presence of, or the potential for, vermin or vectors, and other factors which would warrant special concern.

(c) The generator is responsible for managing solid waste pursuant to these rules until the waste is collected by an approved collector, or deposited at an approved handling or disposal facility. If such waste is spilled, leaked, or scattered by animals, container failure, wind, or otherwise, or deposited at an unapproved site, it shall be the responsibility of the generator to promptly retrieve all waste and ensure its disposal to the satisfaction of the local health department (LHD). At the time waste is collected by a permitted collector or deposited at an approved handling or disposal facility, responsibility for management of the waste shall pass to the collector, or facility owner or operator, as appropriate.

(d) Plans, specifications, operational procedures, reports, documentation, and other technical data shall be prepared by a person with technical expertise in the field of concern who meets professional standards required by state law.

(e) Applications for permits, variances, exceptions, exemptions, and other required documents shall be signed by the applicant, or a person authorized to legally bind the applicant, and such signature shall be notarized.

(f) All facilities regulated under these rules shall be subject to inspection by the Board or LHD, or agent thereof, without prior notification.

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420-3-5-.03 Definitions.

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

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

(2) **ADEM** -- the Alabama Department of Environmental Management (the Department) as established by Code of Ala. 1975, Section 22-22A-2.

(3) **Approved** -- to be authorized, certified, or permitted by, or to meet the standards of, a regulatory authority.

(4) **Baling** -- a volume reduction technique whereby solid waste is compressed into bales.

(5) **Base Flood** -- a flood that has a 1 percent or greater chance of recurring in any year, or a flood of a magnitude equaled or exceeded once in 100 years on the average.

(6) **Best Management Practice** -- an activity or action, based on a formal plan, implemented in the approved manner, and

properly maintained, that protects the public's health and the environment.

(7) **Board** -- The Alabama State Board of Health as defined by §22-2-1, Code of Ala. 1975.

(8) **Business Concern** -- any corporation, association, firm, partnership, trust, joint venture, or other form of commercial organization.

(9) **Certificate of Exception** -- a certificate issued by the Local County Health Department to an applicant to exempt the applicant from participation in the mandatory collection program and authorizing the certificate holder to transport solid waste generated at his household to an approved solid waste handling or disposal facility.

(10) **Closure** -- the act of terminating all operations at a solid waste facility regulated under these rules or rendering such facility suitable for other uses, pursuant to a plan approved by the LHD.

(11) **Collect** -- to gather solid waste from one or more persons generating such waste.

(12) **Collection Facility** -- lands, buildings, and other appurtenances used to house or maintain vehicles or equipment used for the collection or transportation of solid waste.

(13) **Collector** -- a person who collects and transports solid waste or scrap tires, generated by others for monetary compensation or other considerations.

(14) **Covenant(s) Running With the Land** -- a written agreement between the property owner and another which runs with the land and which cannot be separated from the land and which is intended to bind successors in title. Such agreement is recorded in the Office of the Probate Judge or other records office.

(15) **Disposal** -- the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water, which allows the waste or any constituent of the waste to enter the environment or to be emitted into the air or discharged into any waters, including, but not limited to, groundwater.

(16) **Disposal Facility** -- the location of a disposal site where any ultimate disposal of solid waste occurs.

(17) **Elements** -- weather conditions.

(18) **Environmental Laws** -- any laws or regulations which govern the management activities of solid, hazardous, infectious, liquid, or gaseous waste; protect or preserve natural resources such as air, land, water, and wildlife; designed to prevent fraud, deceit, or misrepresentation with respect to notice, reporting, monitoring, recording, licensing, approval, or pre-approval requirements; designed to protect public health or the environment; designed to prevent or abate the existence of a public or private nuisance which adversely affected public health or the environment; or designed to prevent other intentional, reckless, or negligent acts or omissions that adversely affect public health and the environment.

(19) **Explosive Material or Debris** -- any material whose nature or character is to violently release mechanical or chemical energy, including any residual materials or by-products of the manufacture of such material which exhibit the same nature or character.

(20) **Facility (Solid Waste Facility)** -- all contiguous land, structures, and other appurtenances used for the handling or disposal of solid waste.

(21) **Flood Prone Area** - an area that is generally subject to being flooded or ponded more than 50 times in 100 years or greater than a 50 percent chance in any year. This definition refers to an area that is subject to frequent flooding as observed, or as indicated by soil characteristics defined in the standards of the National Soil Survey Handbook, United States Department of Agriculture.

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

(23) **Garbage** -- putrescible animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food, including waste from markets, storage facilities, handling and sale of produce and other food products, except materials that are serviced by garbage grinders and handled as household sewage. Also excluded are inedible animal by-products, virgin cooking grease, and waste cooking grease.

(24) **Generate** -- the act or process of producing solid waste. Such waste shall be considered to be generated at the point that such materials are first discarded or collected, regardless of any subsequent transportation, transfer, reclamation, or other handling.

(25) **Generator** -- any person who produces solid waste.

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

(27) **Handling** -- the systematic control of solid waste including the collection, storage, processing, or transportation of such waste.

(28) **Hazardous Waste** -- shall be defined in the same manner as that term is defined in the Alabama Hazardous Wastes Management and Minimization Act, Code of Ala. 1975, Section 22-30-1 and the regulations promulgated thereunder.

(29) **Household** -- the people in a family or other group that are living together in one house.

(30) **Imported Solid Waste** -- solid waste generated outside of the state of Alabama and transported into the state for handling or disposal.

(31) **Infectious Waste** -- shall be defined in the same manner as that term is defined in the Alabama Department of Environmental Management's Administrative Code, Division 335-13.

(32) **Key Employee** -- any person employed by a permittee and empowered to make operational or financial management decisions with respect to solid, hazardous, or infectious waste management operations. The term does not include employees primarily engaged in the physical or mechanical handling or disposal of these wastes.

(33) **Leachate** -- any liquid that drains from stockpiled waste material and may have dissolved environmentally harmful substances that may then enter the environment through surface or groundwater or soil.

(34) **Local Health Department (LHD)** -- a county health department.

(35) **Mandatory Collection** - a local solid waste collection program that is offered to every household or person within the collection jurisdiction, with the requirement that such household or person participate in the service unless otherwise excepted or excluded by the LHD.

(36) **Permit** -- a formal written authorization, license, or equivalent control document issued by the appropriate regulatory authority to implement the requirements of an environmental regulation.

(37) **Person** -- any individual, household, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality,

commission, political subdivision of the state, any interstate body, or any other private or public legal entity.

(38) **Processing** -- the act of shredding, grinding, sorting, baling, reclaiming, recycling, or otherwise altering solid waste.

(39) **Processing Facility** -- any facility or site employed in the handling of solid waste prior to its arrival at an approved disposal site, including, but not limited to, tire processors, material recovery facilities and sorters, reclamation centers, shredders and grinders, and volume reducers.

(40) **Protected Natural Resource**-- coastal sand dune systems, coastal wetlands, significant wildlife habitats, fragile mountain areas, freshwater wetlands, great ponds or rivers, and streams or brooks as defined under Title 38, Article 5A, Section 480-A-480-S, entitled "The Protection of Natural Resources."

(41) **Public Health Nuisance** -- those things, conditions, and acts enumerated in the Code of Ala. 1975, Section 22-10-1.

(42) **Putrescible** -- solid waste which is readily decomposed by micro-organisms producing a malodor attracting potential disease vectors which cause a public health nuisance.

(43) **Registered Engineer** -- a person registered as a professional engineer with the State of Alabama Board of Licensure for Professional Engineers and Land Surveyors, practicing under the Rules of Professional Conduct (Code of Ethics).

(44) **Registered Land Surveyor** -- a person registered as a professional land surveyor with the State of Alabama Board of Licensure for Professional Engineers and Land Surveyors, practicing under the Rules of Professional Conduct (Code of Ethics).

(45) **Residence** -- a structure used as a home.

(46) **Roll-off Container** - special dumpsters designed to be rolled on and off of transport vehicles.

(47) **Rubbish** -- nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste. Combustible rubbish includes, but is not limited to, paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves, and similar materials. Non-combustible rubbish includes, but is not limited to, glass, crockery, metal cans, metal furniture, and like materials which will not

burn at ordinary incinerator temperatures, not less than 1600 degrees F.

(48) **Scavenging** -- the unauthorized or uncontrolled searching through, removal, or reclamation of waste materials from a solid waste handling or disposal facility.

(49) **Shared Service** -- an activity that qualifies a household or person to be excluded from participating in a mandatory collection program, provided that such household or person complies with the requirements set forth in Rule 420-3-5-.06(2)(b) of these Rules.

(50) **Shredding** -- the process of reducing the particle size of solid waste.

(51) **Significant Interest** -- all persons or business concerns, holding more than 5 percent of equity or debt liability of a business, unless the debt liability is held by a charter lending institution.

(52) **Sinkhole** -- a natural depression formed as a result of subsurface removal of soil or rock materials and causing the formation of a collapse feature that exhibits internal drainage. The existence of a sinkhole is typically indicated by closed depression contour lines on a United States Geological Survey 7.5-minute quadrangle topographic map, or as determined by field investigation. A sinkhole begins at the outer margins of the depression, as determined at the site by a professional geologist.

(53) **Solid Waste Collection Fee Exemption** -- permission to participate in a mandatory solid waste collection service without payment of a fee granted by the county commission or municipal governing body to households whose sole source of income is social security benefits.

(54) **Solid Waste** -- any garbage, rubbish, construction or demolition debris, ash, or sludge from a waste treatment facility, water supply plant, or air pollution control facility, and any other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or community activities, or materials intended for or capable of recycling, but which have not been diverted or removed from the solid waste stream. The term "solid waste" does not include recovered materials, solid or dissolved materials in domestic sewage, solid or dissolved material in irrigation return flows, or industrial discharges which are point sources subject to the National Pollutant Discharge Elimination System permits under the Federal Water Pollution Control Act, as amended, or the Alabama Waste Pollution Control Act, as amended, or the source, special nuclear, or

by-product materials as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are land applications of crop residues, animal manure, and ash resulting exclusively from the combustion of wood during accepted agricultural operations, waste from silvicultural operations, or refuse as defined and regulated pursuant to the Alabama Surface Mining Act of 1969, Article 1, commencing with Section 916-1, or Chapter 16 or Title 9. For purposes of these rules, solid waste excludes medical waste and hazardous waste.

(55) **State** -- the state of Alabama.

(56) **State Health Department** -- the Alabama Department of Public Health as defined by Code of Ala. 1975, Section 22-2-1.

(57) **State Health Officer** -- the Health Officer for the State of Alabama as set out in Code of Ala. 1975, Section 22-2-8, or the designee thereof, as provided by law.

(58) **Surface Water** -- water above the surface of the ground, including, but not limited to, waters of a bay, river, stream, watercourse, pond, lake, swamp, wetland, spring or artesian well, located partially or wholly within the state, including the Gulf of Mexico. Generally, these features exhibit some characteristic(s) indicating a degree of permanence (i.e., a riverbank, a depression that holds water for a few days after a rain, or a wet weather spring does not qualify.).

(59) **Transfer Station** -- a facility, the primary purpose of which is to store or hold solid waste for transport to a processing or disposal facility. For purposes of these Rules, a transfer station does not include roadside containers, dumpsters or roll-off compactors when they are being used to fulfill the requirements of the Code of Ala. 1975, Section 22-27- 3(a) (1) .

(60) **Transportation** -- the movement of solid waste from the point of generation to a handling or disposal facility or from one handling or disposal facility to another.

(61) **Transportation Unit** -- the smallest containment housing that collectively makes up the whole of a shipment, into which solid waste is placed for transporting. This includes, but is not limited to, a single trailer load of compacted, loose-filled, or baled solid waste, or a container into which solid waste is placed in compacted, loose-filled or baled form; a railroad car filled with solid waste containing garbage that is placed in compacted, loose-filled or baled form.

(62) **Transporter** -- a person or public or private entity, engaged in the off-site transportation of solid waste, but does not include a person transporting his own solid waste

pursuant to a Certificate of Exception issued by the appropriate regulatory authority.

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

(64) **Variance** -- an act of varying from what is required and what is taking place; where the requirements are being met in an alternative manner; or authorization to do some act contrary to the usual rule.

(65) **Vector** -- an organism that can carry or transmit a human pathogen, or human disease-causing agent, from one host to another.

(66) **Vehicle** - a type of equipment that collects or transports solid waste that includes but is not limited to trucks and trailers.

(67) **Vermin** -- any of the various small animals or insects that are destructive, annoying, or injurious to health, including, but not limited to, flies, cockroaches, rats, foxes, and weasels.

(68) **Waiver** -- to waive or set aside a requirement.

(69) **Waters of the State (Water)** -- subsurface or surfaced ground water, including aquifers, and surface water of a river, stream, watercourse, reservoir, pond, lake, or coast, wholly or partially within the state, natural or artificial. This does not include waters that are entirely confined and retained completely upon the property of a single individual, partnership, or corporation unless the owner or others use such waters in the conduct of interstate commerce.

(70) **Water Table Elevation** -- the upper limit of the portion of the ground wholly saturated with water.

(71) **Wetland** -- a transitional area between aquatic and terrestrial ecosystems that is inundated or saturated for long

enough periods to produce hydric soils and support hydrophytic vegetation.

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420-3-5-.04 Other Approvals Not Implied.

Approval of any regulated solid waste operation or facility by the LHD or the State Health Department, when required, does not constitute or imply approval by any county, municipality, or other agency having planning, zoning, or other legal jurisdiction. Similarly, the approval of development plans by other agencies does not negate the required approval by the State Health Department for regulated solid waste operations or facilities in accordance with this Chapter.

Author: Dillon Bullard

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

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420-3-5-.05 Limitations.

Nothing in these rules shall be construed to limit the authority of municipal and county governments, or solid waste authorities, to adopt more stringent solid waste management requirements.

Author: Karen Bishop

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420-3-5-.06 Certificate Of Exception And Shared Service.

These rules specify the method of obtaining a Certificate of Exception for any household who meets the minimum requirements and who chooses to dispose of his household solid waste in an approved manner or transport his own household solid waste to an approved handling or disposal facility. Certificate of Exceptions apply only in mandatory collection jurisdictions.

(1) **General.** A person, household, or any property owner may store, haul, and dispose of his or her own solid wastes on his or her land or otherwise, provided such storage, haulage, or disposal is accomplished pursuant to a Certificate of Exception. To obtain a Certificate of Exception, an application, application fee, and a plan must be filed with the LHD.

(a) An application for a Certificate of Exception shall be made on forms provided by the Board.

(b) The certificate holder must abate any public health nuisance resulting from the certificate holder's storage or transportation of solid waste.

(c) The LHD shall not issue Certificates of Exception without prior written approval from the local governing body.

(d) The LHD is authorized to deny an application for a Certificate of Exception if such exception violates any federal, state, or local law or ordinances, or any rules promulgated by any other federal or state agency, or other states.

(e) All certificates shall be valid for 1 year from the date of issue and are renewable annually.

(2) **Transportation Exception.** No household shall transport its own solid waste for handling or disposal until such household has applied for and received a Certificate of Exception from the LHD. The LHD may issue the exception for households but may not issue the exception for businesses or industries.

(a) The applicant shall meet the following criteria:

1. The application shall be made on forms provided by the Board.

2. The application shall be accompanied by a written plan for the transportation of the household's solid waste, including, but not limited to, the method and frequency of transportation, the name and location of the facility to be used, and written verification that such facility agrees to accept the applicant's waste.

(b) Solid waste shall be transported at least weekly and shall be deposited at a facility approved to receive such waste.

(c) Solid waste shall be stored and transported in a manner that will not create a public health nuisance and will prevent the leakage, spilling, or escape of solid, semi-solid, or liquid wastes.

(d) The certificate holder shall promptly retrieve or remove any waste materials that leaked, spilled, or escaped during storage or transportation and deposit such waste at an approved facility.

(e) The certificate holder shall obtain a receipt for each deposit of solid waste.

1. Said receipts shall be maintained for at least 2 years from the date of issue and shall be made available to the LHD upon request.

2. Each receipt for deposit of solid waste shall contain the name and location of the facility used and the date of deposit.

(3) Shared Service. A person desiring to be excluded from participating in a mandatory collection program because of shared service shall identify himself to the LHD and verify compliance with the requirements of (2)(b) above.

(a) Exclusion from a mandatory collection program is renewable annually; however, such exclusion is non-transferable from one person to another. In addition, if the collector discontinues service, and is not replaced by another collector who agrees to collect the combined waste, then shared service is no longer allowed.

(b) Persons who request to be excluded from participating in a mandatory collection program due to shared service

shall provide documentation to the LHD that their activity satisfies the following criteria:

1. All persons under such agreement are located within the same governing body's collection jurisdiction.
2. Collection of the solid waste is accomplished pursuant to an agreement with an approved collector and in a manner approved by the LHD.
3. The collector is aware that the service is being shared, and said collector agrees to collect the combined solid waste for the single price charged.
4. The solid waste being combined is generated on properties which are located adjacent to each other.

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420-3-5-.07

Solid Waste Collection Fee Exemption.

Households whose sole source of income is social security benefits may seek an exemption from the payment of solid waste collection fees from the county or municipal governing body by submitting a request and proof of income to the LHD. The applicants shall verify income through a notarized and sworn statement, and attach any relevant supporting documents. The LHD or his designee shall forward the statement and any attachments to the county solid waste officer or municipal governing body for approval of the exemption. The exemption shall apply only so long as the household's sole source of income is social security and shall be requested each year no later than the first billing date of any year in which the exemption is desired. Such exemptions may only be granted in those counties and municipalities that have adopted a mandatory public participation program in accordance with the Code of Ala. 1975, Section 22-27-3(a)(2) and (3).

(1) In addition to a social security exemption, the legislature may, by local law, authorize the county commission to grant additional exemption to households whose total income does not exceed 75 percent of the federal poverty level.

(2) Households granted the exemption from the county or municipal governing body shall participate in the local solid waste collection service and shall not be required to pay a fee for such service during the duration of the exemption.

(3) Application for an exemption shall be made on forms provided by the Board.

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420-3-5-.08 Unauthorized Dumps.

The creation, contribution to, or operation of an unauthorized dump is a public health nuisance and shall be abated as provided by law.

Persons who create, contribute to, or operate an unauthorized dump or who own the property upon which an unauthorized dump is located shall be held responsible for any abatement action deemed necessary by the LHD, including, but not limited to, the removal of the solid waste to an approved handling or disposal facility.

Author: Phyllis C. Mardis; Karen Bishop; Dillon Bullard

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

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420-3-5-.09 Solid Waste Storage.

(1) Each generator of solid waste is responsible for providing adequate storage for his or her solid waste in a manner consistent with these rules and acceptable to the LHD.

(2) All solid waste shall be stored in a manner that does not constitute a public health nuisance or health hazard or provide food or harborage for vermin or vectors and shall be contained or bundled so as not to result in litter or the contamination of ground or surface water.

(3) Storage systems for solid waste shall include containers of adequate size and strength, and in sufficient numbers, to contain all solid waste that each person generates in the period of time between collections or disposal.

(4) Solid waste containing putrescible materials shall be collected and transported to a handling or disposal facility at a frequency adequate to prevent propagation and attraction of vermin or vectors or the creation of a public health nuisance, but in no case shall any of such waste be stored for more than 1 week prior to being collected for transportation to a handling or disposal facility.

(5) Garbage or rubbish shall be stored in:

(a) Rigid containers that are of a size to accommodate the waste generated and that are durable, rust resistant, washable, nonabsorbent, watertight, and vermin proof. The container shall be easy to clean and fixed with close fitting fly-tight lids or covers. The containers shall be constructed in a manner to facilitate handling.

(b) Other types of containers that meet the requirements of this Rule or are acceptable to the LHD.

(6) Rubbish shall be stored in durable containers. Rubbish too large or otherwise not suitable for storage in containers shall be stored in a nuisance-free manner consistent with requirements of these rules.

(7) The site where solid waste storage containers are located shall be readily accessible to persons depositing or collecting such waste, including during periods of inclement weather.

(8) The site where solid waste storage containers are located shall be adequately maintained in a sanitary manner which shall include, but not be limited to, the following:

- (a) Regular cleaning of the site and containers.
- (b) The prompt remediation of spills or leakages of solid, semi-solid, or liquid waste.
- (c) The control of vegetation on and around the site.
- (d) Vermin and vector control at the site and in the containers.

(9) Sites where roadside containers are used as an integral part of a local solid waste collection service shall be operated following best management practices.

Author: Phyllis C. Mardis; Dillon Bullard; Matthew Conner; Ken Stephens; Thad Pittman

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

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420-3-5-.10

Collection And Transportation.

Any person, whether public or private, engaging in the collection or transportation of solid waste, shall be subject to the requirements of this Rule.

(1) **Permitting.** No person shall collect and transport solid waste, until he has applied for and received a Solid Waste Collector permit from the LHD. Persons who transport solid waste but are not engaged in the door-to-door collection of solid waste generated within the state shall apply for and receive a Solid Waste Transporter Permit in lieu of a Solid Waste Collector Permit from the LHD before beginning such activity.

- (a) The issuance of a Solid Waste Collector or Solid Waste Transporter Permit authorizes the permit holder to

collect or transport solid waste only within a set boundary or designated jurisdiction.

(b) The application for a permit or approval to collect or transport solid waste shall be made on forms provided by the Board, and be accompanied by the following:

1. The method used for flushing, cleaning, and maintaining vehicles and equipment.
2. Documentation of the method for disposal of wastewater, resulting from flushing and cleaning of vehicles and equipment.
3. A plan for the prompt clean-up of spills.
4. A plan for collection or transportation during periods of equipment failure to include the availability and use of standby equipment through contract(s) or methods acceptable to the LHD.
5. Evidence of the posting of a performance bond or other assurance as may be satisfactory to the local governing body.
6. A site plan of the collection facility to be used to house, maintain, or clean vehicles.

(c) A Solid Waste Collector or Solid Waste Transporter Permit shall be obtained from the LHD in each county where said collector or transporter operates a collection facility. Permits are renewable annually by October 1.

1. A LHD may honor a permit issued by another LHD. The person shall pay any and all local county fees as applicable.
2. Any solid waste collector or transporter operating in the state, whose collection facility is located outside the state, shall apply for a permit from a county health department designated by the Board. The out-of-state transporter shall make known to the LHD a fixed location where its trucks can be made available for inspection by the LHD during reasonable business hours.

(2) **Operations.** The collection of solid waste shall not cause a public health nuisance, and shall be accomplished pursuant to the following requirements:

(a) Solid waste shall be collected at the frequency specified in contracts or agreements, but no less frequently than once per week.

(b) All spills of solid, semi-solid, or liquid waste resulting from, or which occur during, the collection operation shall be promptly abated by the collector to the satisfaction of the LHD.

(c) All solid waste shall be collected and transported in vehicles approved by the LHD and deposited at an approved facility.

(d) Solid waste shall not be unloaded from any collection vehicle except for transferring to another vehicle, unloading at an approved facility, or due to emergency situations. When a vehicle is unloaded due to an emergency, the waste shall be promptly relocated and removed, and the site shall be thoroughly cleaned of all residue resulting from the unloading after the emergency no longer exists.

(e) Solid waste shall not be stored after collection in a collection vehicle or other equipment for more than 24 hours before disposal or delivery to an approved facility.

(f) Collection vehicles shall not be parked overnight in an area that is predominantly residential, unless one of the following requirements is met.

1. The vehicle has been emptied of all waste and has been thoroughly flushed and cleaned.

2. The vehicle is parked at an approved collection facility.

(g) Solid waste collectors and solid waste transporters shall keep manifests detailing the place, date, and times of collection of solid waste from the generator or other places, excluding individual households, for 2 weeks after the date of such collection or transportation occurs. Summaries of the above information, the name of the person responsible for the waste collection and transportation, and receipts verifying the name and location of facilities at which waste is deposited, including the date and time of each deposit and the weight of the waste deposited shall be retained by the collector and transporter for 1 year following the activity.

(h) Public access to collection facilities shall be minimized.

(i) Wastewater resulting from flushing or cleaning of the facility, equipment, or collection or transportation vehicles shall be disposed of by methods as approved

under the permit, whether the process is performed on the collection facility grounds or at other locations.

(j) Collection facilities shall be operated, maintained, and closed in a sanitary manner including, but not limited to, control of vegetation, windblown litter, and the harborage of vermin and vectors.

(k) Solid waste collected or transported pursuant to a permit issued under these rules, shall at no time contain any regulated hazardous waste, infectious waste, or explosive material or debris.

(3) **Equipment.** All vehicles and equipment used for the collection or transportation of solid waste shall be constructed, operated, and maintained to prevent the creation of a public health nuisance and to meet the requirements of these rules.

(a) All vehicles used for the collection or transportation of solid waste shall be permitted by the LHD before such use and may be inspected annually. Vehicles that fail to meet minimum standards of the State Health Department during inspection shall not be used for collection or transportation of solid waste.

(b) Vehicles used for the collection or transportation of solid waste shall be constructed, operated, and maintained in a manner to prevent the escape of solid, semi-solid, or liquid waste and shall adhere to the following standards:

1. All surfaces that come in contact with waste shall be smooth, non-absorbent, and washable.
2. If applicable, all drain holes and valves shall be properly closed, plugged, or sealed.
3. The vehicle shall be equipped with seals, gaskets, or other devices necessary to prevent the escape of liquids. Such seals, gaskets, and other such devices shall be maintained and replaced as needed.
4. If applicable, the truck body, waste holding area, and hopper shall be free of holes, cracks, rusting, corrosion, or other evidence of damage or weakness that may allow the escape of solid, semi-solid, or liquid waste.
5. The waste holding area, including the hopper and around the packer blade, if so equipped, shall be cleaned regularly of debris to prevent the accumulation of vectors or litter.

6. If applicable, the sides, bottom, top, and cab of the vehicle shall be free of loose litter to prevent its escape to the environment.

7. If applicable, the vehicle shall be serviced, repaired, and cleaned on a regular basis so as to maintain sanitary conditions, to preserve the integrity of the packer door seal, to prevent the accumulation of mechanical fluids, dirt, and filth on the vehicle's exterior, and to prevent contamination of the environment by such fluids.

8. Effective control of windblown litter or other waste shall be maintained through the use of adequate restraints where necessary, including tarps or other devices, while the vehicle is in operation or contains solid waste. Vehicles not equipped to effectively control wind-blown litter are prohibited.

(c) Equipment used for transportation shall meet best management practices with regards to construction, operation, and maintenance.

(d) Containers used for the storage, collection, or transportation of solid waste, such as compactors, roll-off containers, and dumpsters, shall be managed pursuant to requirements and standards stipulated under Rule 420-3-5-.09 as applicable.

(4) **Imported Solid Waste.** Any person, whether public or private, who imports solid waste shall adhere to the requirements of this rule.

(a) Persons who import solid waste into the state in addition to collecting and transporting solid waste generated within the state, shall apply for and receive a Solid Waste Collector Permit from the LHD before beginning such activity.

(b) Persons who import solid waste into the state, but do not collect and transport solid waste generated therein, shall apply for and receive a Solid Waste Transporter Permit in lieu of a Solid Waste Collector Permit from the LHD before beginning such activity, and shall comply with the requirements of this rule.

(c) Manifests shall be kept that contain the following information:

1. Identification of the place(s) the solid waste was generated (state, county, municipality, etc.).

2. The date the solid waste was collected from the point(s) of generation.

3. The identifying numbers or letters of the alphabet assigned to each unit and the number and type of individual units shipped.

4. Names of collectors, transporters, transfer stations, and all others who handled the solid waste enroute to the disposal facility.

5. The name, telephone number, and address of the person(s) responsible for the transport and disposal of the solid waste.

6. The name and location of the disposal site.

(d) The importer shall provide the LHD with verification that imported solid waste was collected or transported in accordance with all rules and regulations of the state from which the waste was generated, collected, or imported.

(e) Persons who import solid waste shall post with the Board, financial assurance in an amount not less than \$250,000, in accordance with Code of Ala. 1975, Section 22-27-5(d), with a guarantee that at no time shall any shipment of solid waste contain any regulated hazardous waste, infectious waste, or explosive material or debris. The financial assurance shall be in the form of a performance bond, letter of credit, escrow account, or other recognized financial instrument as shall be acceptable to the Board.

Author: Phyllis C. Mardis; Dillon Bullard; Matthew Conner; Ken Stephens; Thad Pittman

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

History: Adopted June 15, 1988; Filed June 20, 1988; effective July 25, 1988. Emergency Repeal and **New Rule:** Filed May 20, 1994; effective May 27, 1994. **Repealed and New Rule:** Filed October 20, 1994; effective November 24, 1994. Emergency Repeal and **New Rule:** Filed November 20, 1997. **Repealed and New Rule:** Filed January 21, 1998; effective February 25, 1998. **Repealed and New Rule:** Filed April 20, 2017; effective June 4, 2017. **Amended:** Published September 30, 2021; effective November 14, 2021.

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420-3-5-.11 Transfer Stations.

For applications submitted after the effective date of these rules and before making application to the LHD, the applicant shall obtain approval from the local governing body pursuant to Code of Ala. 1975, Section 22-27-48.1. Transfer stations shall meet all the requirements of these rules and shall be subject to inspection by the Board or LHD, at least semi-annually, to include inspections performed at the time a permit is issued or renewed. More frequent inspections may be performed if deemed necessary by the LHD. For purposes of this section, applicant means any persons, except public agencies applying for a permit to operate, construct, or modify a transfer station.

(1) **Permitting.** No person shall construct, operate, or materially alter or modify, excluding normal maintenance, a transfer station facility until he has applied for and received a Transfer Station Permit from the LHD, renewable annually on October 1.

(a) The application for a permit to establish, materially alter, or operate a transfer station shall be made on forms provided by the Board, which shall be submitted to the LHD with the following information attached:

1. Legal description of property or deed with any easements or Covenants Running with the Land attached.
2. A letter from each solid waste disposal facility that has agreed to accept waste from the transfer station and a listing of any conditions, including, but not limited to, the types of waste to be received, the types of waste that are prohibited, and the hours that waste will be received.
3. A letter from each solid waste handling or disposal facility that has agreed to accept waste should an emergency diversion become necessary and a listing of any conditions, including, but not limited to, the types of waste to be received, the types of waste that are prohibited, and the hours that waste will be received.
4. A site plan of the structures and utilities on a scale of sufficient detail to include features up to 500 feet beyond the facility boundaries. The site plan shall include:

(i) Lot dimensions/size, with property lines identified.

(ii) Property boundaries and fences.

(iii) The location of existing or proposed structures that will be used in the solid waste handling process to include scales, transfer building and foundation, compactor unit, transfer trailer bay, and storage containers (drawn to scale).

(iv) Surface waters.

(v) The location of sanitary sewer or onsite wastewater treatment system. Attach a letter from the local sanitary sewer authority authorizing discharge of wastewater to their wastewater treatment facility, or a copy of the permit to install an onsite sewage disposal system. If a holding tank will be used to capture and contain leachate, then also attach a copy of the contract with a company who will pump the tank.

5. A scaled, 1-mile radius area map showing the proposed site buildings and any residences, schools, recreational facilities, wells, caves, sinkholes, and any railroads and state and county maintained streets and roads.

6. A site plan of the facility to include, but not be limited to, the details of the scales, transfer building and foundation, compactor unit, floors and drains, curbing, plumbing, sewer lines and connections, water supply lines, traffic flow, offices, sanitary facilities, fences, roads, parking lots, onsite sewage disposal system, and storage containers.

7. A U.S. Geological Survey topographical map of the area, showing the transfer station boundaries, property boundaries, surface waters, natural and artificial drainage features, wells, base flood plains, protected natural resources, and natural geographic features located within 500 feet of the facility boundaries.

8. A statement that addresses the setback distances from the transfer station buildings to the nearest surface water, well, sinkholes, and caves and the impact that the construction and operating of the transfer station will have on each feature.

9. A statement from the Army Corps of Engineers stating that the construction and operation of the transfer station will not adversely impact a federally protected wetland.

10. Source of water supply.

11. Documents verifying that the control and disposal of wastewater, washdown water, and leachate directly into a public or private sewer system via connection, or indirectly by pumping and hauling, and the control and disposal of stormwater, have been approved by the Department or the LHD, as appropriate; or documents verifying that such approval is not required.

12. An Operation Manual, prepared in accordance with subparagraph (4) of this rule.

(b) The applicant shall employ the services of a registered engineer to prepare the application.

(c) The application for permit renewal shall be made on forms provided by the Board and shall be accompanied by any attachments which have been revised since the last permit issuance or renewal or any new information concerning compliance with these rules.

(d) Applicants shall submit a disclosure statement in accordance with subparagraph (6) of this rule

(2) **Location.** The location of a transfer station shall meet the following siting requirements:

(a) The facility shall be surrounded by buffer zones of the following proportions unless such facility is located in an area zoned industrial or commercial. Measurements will be taken from the tipping floor.

1. One hundred feet from all public roads and other property boundaries.

2. Five hundred feet from the nearest residence, school, recreational park, day care facility, or food service or food handling establishment in existence at the time the application is filed.

(b) Facilities located in urbanized areas or other locales that require the use of a small acreage lot may obtain approval from the Board for a reduced buffer zone, provided operations are enclosed and do not create a public health nuisance or hazard, and all other Environmental Protection Agency requirements for an urban transfer station are adhered to.

(c) The applicant shall employ the services of a registered engineer to determine setback distances between the facility and the nearest well, surface water, sinkhole, or cave necessary to prevent contamination of surface or ground water. For setback distances of less than 500 feet, approval shall be obtained from the Board.

(d) The transfer station, or its construction, shall not be located in, on, over, or result in the destruction or adverse modification of:

1. A protected natural resource.

2. The critical habitat of any endangered or threatened species of plants, fish, or wildlife as identified in 50 CFR Part 17, entitled "Wildlife and Fisheries."

(e) Location of the transfer station shall be adjacent to access roads, which are capable of withstanding anticipated load limits under all weather conditions.

(f) The transfer station shall not be located in areas subject to the base flood, reduce the temporary water storage capacity of a floodplain, or result in washout of solid waste.

(g) Transfer stations shall not be sited in areas determined by the Alabama Historical Commission to be archaeological or historically sensitive locations at the time of initial application.

(3) **Design.** The design of a transfer station shall adhere to the following requirements:

- (a) The applicant shall employ the services of a registered engineer to design the facility, such that it will not create a source of contamination of ground or surface waters, or create a nuisance or hazard to public health or the environment.

- (b) The transfer station shall have sufficient capability to handle, in a nuisance-free manner, all waste unloaded at the facility at all times.

- (c) The transfer station shall be enclosed within a chain link fence, or other fence material, with a gate(s) that can be secured, in order to effectively prevent access to the facility while the facility is unattended or not operating, and to contain windblown litter inside the facility boundaries.

(d) Access to and from the transfer station and vehicular flow shall minimize traffic congestion, dust, and noise at all times, including during adverse weather conditions.

(e) Sanitary facilities, including rest rooms and hand wash basins, shall be provided for use by transfer station personnel as is recommended by the Southern Standard Plumbing Code.

(f) Compactors and other equipment shall be cleanable and shall be equipped with drains that are connected to a sanitary sewer system or equivalent.

(g) Waste tipping, loading, and unloading areas shall be roofed and floors shall be constructed of an impervious material, which is readily cleanable. Such surfaces shall be equipped with drains that are connected to a sanitary sewer system or equivalent.

(h) Roofs shall be designed, constructed, and maintained in a manner that prevents exposure of the waste thereunder to the elements.

(i) The applicant shall employ the services of a registered engineer to certify that the facility was constructed in accordance with all the requirements of these Rules and conditions of the permit, and with the design approved by the LHD.

(4) **Operations.** The Operation Manual for the transfer station shall contain:

(a) A statement explaining how access to the transfer station by unauthorized persons will be restricted.

(b) A statement of maximum waste handling and storage capacity as determined by the engineer.

(c) A plan for managing vegetation on and around the transfer station.

(d) The operation, management, and closure of a transfer station shall not cause a nuisance or hazard to public health or the environment, and shall be accomplished pursuant to the following requirements:

1. A transfer station shall not accept or receive solid waste from persons other than permitted solid waste collectors or solid waste transporters unless said persons have obtained a Certificate of Exception.

2. A transfer station shall not receive or accept waste, nor shall any person deposit waste at a transfer station, if such waste is composed of or contains regulated hazardous waste, infectious waste, or explosive material or debris.

3. The operator of a transfer station shall immediately notify the LHD and other appropriate regulatory authorities when any waste, prohibited from being deposited at a transfer station by these rules, is delivered to or discovered at the facility. The operator shall record the following information concerning such incident:

(i) The date and time the prohibited waste was discovered.

(ii) The date and times the LHD and other authorities were notified.

(iii) The quantity of the waste.

(iv) The place where the waste was generated.

(v) The name, address, phone number, and permit number of person who deposited such waste, if known.

(vi) The type of waste discovered.

(vii) Other information concerning the incident that is known by the operator.

(e) The storage of solid waste at the facility and the storage containers shall adhere to requirements of Rule 420-3-5-.09 of these Rules.

(f) The transfer station shall be maintained in a sanitary manner to prevent the harborage of vermin or vectors and to prevent the creation of a public health nuisance. Required maintenance shall include, but is not limited to, the following:

1. The facility and equipment used for handling or storing solid waste shall be cleaned regularly.

2. Windblown litter and other debris shall be cleaned from around the facility on a daily basis.

3. Vermin and vectors shall be controlled in a manner acceptable to the LHD and through a person licensed or certified by the Alabama Department of Agriculture and Industries to perform pest control services.

4. Weeds, grass, and other vegetation shall be trimmed regularly.

5. Dust, noise, and odor shall be minimized.

(g) All washdown water, leachate, waste water, and storm and surface water shall be managed and disposed of by methods as approved under the permit. Holding tanks, if used, shall be of sufficient capacity and maintained in such a manner that allows the facility to be flushed and cleaned in accordance with subparagraph (3)(a) of this rule.

(h) The operator shall provide and maintain in good repair, access roads at the facility.

(i) Equipment at the transfer station shall always be sufficient to handle all solid waste received at the facility. The operator shall provide for routine maintenance and safety checks of all equipment. In the event of equipment failure, or other cause of work stoppage, the facility shall have access to back-up equipment to handle all waste effectively, or the operator shall provide for the diversion of all solid waste to other approved facilities. The operator shall notify the LHD of any significant work stoppage or other emergency as soon as possible, but no later than 24 hours after such stoppage or emergency occurs, and shall provide any information requested by the LHD pertaining to such emergency.

(j) An attendant who meets the requirements of subsection (g) below shall be on duty at the facility during all operating hours.

(k) An operation manual shall be prepared and maintained which describes the facility's current policies, practices, and emergency procedures at the facility. It shall address all the operating requirements of this rule. The manual shall be made available to all facility personnel.

(l) The permittee shall provide for the instruction of facility personnel, at least semi-annually, on the operating manual and on matters related to worker safety, health, and hygiene. In order to prevent the transmission of human pathogens:

1. Eating, drinking, smoking, vaping, and the use of smokeless tobacco shall be prohibited at those work stations where employees have physical contact with solid waste. Warning signs shall be posted at prominent locations at such stations stating that

eating, drinking, smoking, vaping, and the use of smokeless tobacco are prohibited in that area. Transfer station operators shall post signs in prominent locations, reminding employees to wash their hands before eating, drinking, smoking, vaping, or using smokeless tobacco.

2. The operator shall, at the start of each workshift, assure that each employee who will have physical contact with solid waste at the transfer station is provided with and uses protective clothing or gear which will provide a barrier between the employee and solid waste and which is acceptable to the LHD. Such clothing or gear shall be removed by the employee prior to leaving the facility at any time.

(m) The permittee shall provide sufficient fire extinguishing equipment and shall adopt fire prevention practices to the satisfaction of the local fire marshal. Arrangements shall be made with the local fire department for the provision of emergency services.

(n) Plumbing shall be properly maintained and floors shall be well drained and free of standing water.

(o) Sanitary facilities shall be maintained in good operational condition.

(p) A statement of the days and hours of operation shall be posted at the entrance of the facility, and access shall be limited to those times when authorized personnel are on duty.

(q) Operation and management shall be under the direct supervision and control of an individual qualified to operate transfer stations by training, education, or experience, including, but not limited to, the following:

1. Complete a course or program developed by the Solid Waste Association of North America or an equivalent organization or industry that qualifies an individual to manage a transfer station, as approved by the Board.

2. Knowledge of the emergency procedures of the local governing body and the local emergency management agency.

3. Knowledge of the transfer station management plan.

4. Hold a certification or license authorizing said person to identify hazardous waste.

5. Basic knowledge of the usage of facility equipment.

(r) Open burning of any type is prohibited at a transfer station.

(s) Solid waste shall not remain at a transfer station longer than 24 hours after it is received or deposited. A permit holder may obtain approval from the LHD to retain garbage longer than 24 hours if the facility is equipped to contain garbage in a manner that will not create odors or provide harborage for vermin or vectors.

(t) Scavenging at a transfer station is prohibited.

(5) **Closure.** The transfer station permittee shall notify the LHD at least 90 days in advance of the proposed date of closure of the facility. The operator shall submit a closure plan to the LHD at the time of such notification. The permittee shall also notify all facility users at least 90 days in advance of the proposed closure date. Closure of the transfer station may not proceed until the closure plan, as submitted by the operator, has been approved by the LHD. Closure of the transfer station shall be accomplished in accordance with the following requirements:

(a) Within 24 hours of the termination of operations, the transfer station permittee shall remove, or cause to be removed, all solid waste, debris, and residue and dispose of same at an approved handling or disposal facility. The permittee shall ensure that the site in its entirety is left in such a manner so as to not cause a public's health nuisance or the environment and in a manner that is acceptable to the LHD.

(b) After closure, access to the facility shall be restricted and signs shall be posted stating the facility is closed and gives the location of the nearest approved transfer station or disposal facility. The depositing of solid waste at a closed facility is prohibited.

(c) The applicant shall employ the services of a registered engineer to certify that the transfer station has been closed in accordance with the approved closure plan and the requirements of these rules.

(d) Solid waste deposited at the facility after closure is the responsibility of the permittee or property owner and shall be removed to an approved solid waste handling or disposal facility.

(e) The transfer station permittee shall retain records of all activities occurring at the facility for at least

2 years. Additionally, such records shall be retained longer than 2 years if such records are under dispute. Such records shall be made available upon request to the LHD, and shall, at a minimum, include the following information:

1. The quantity of solid waste, in tons per day, delivered to and received by the facility each day.
2. The quantity of solid waste, in tons per day, moved from the transfer station each day for delivery to a handling or disposal facility.
3. The county, city, or other point of generation, date, and quantity, in tons, of each shipment of solid waste deposited at the facility, and the name and permit number of the solid waste collector or other authorized user who deposited such waste.
4. The receipts containing waste quantities, dates, etc., from handling or disposal facilities at which each shipment of solid waste from the transfer station has been deposited.
5. The facility's sanitation and management practices, including vermin and vector control practices. Site maintenance and other items which substantiate fulfillment of the operations plan.
6. Other operational and management information as it relates to the protection of public health that the LHD may require.

(6) **Disclosure of Records.** It is the permittee's continuing duty to disclose information as required by these rules, after the issuance of any transfer station permit.

(a) Applicants for the issuance or renewal of a transfer station permit shall submit, at the time of initial application or permit renewal, a disclosure statement to: Alabama Department of Public Health, Office of General Counsel, 201 Monroe Street, Montgomery, Alabama 36130-3017. The statement shall contain the following information:

1. The full name, business address, home address, date of birth, social security number or federal employer identification number of the applicant; which shall include any directors, partners, or key employees with respect to the proposed solid waste operations; any member of a public or semi-public entity such as an authority, board, commission or council that applies for such permit and all persons

or business concerns holding more than 5 percent of the equity in or debt liability of that business, unless the debt liability is held by a charter lending institution.

2. The full name and business address of any company that handles or disposes of solid, hazardous, or infectious waste in which the applicant holds a significant financial interest.

3. A list and explanation of any felony convictions, any criminal convictions of environmental laws, and any adjudicated civil or administrative violations of environmental laws administered by the Board or other state agencies, the state, other states, the United States, or another country against any person named in subparagraphs (a)1 or (a)2 above. All convictions and civil or administrative adjudications referenced herein, excluding those involving public corruption or violations of environmental laws, which occurred more than 7 years prior to the submission of a transfer station do not require disclosure,

4. A list and explanation of any ongoing court proceeding or any ongoing administrative enforcement action not already provided under subparagraph (a)3 of this Rule in which any person named in subparagraphs (a)1 or (a)2 above is or was a party and which concerns environmental laws administered by the Board, other state agencies, the state, other states, the United States, or another country.

5. A list of any persons outside of Alabama who have regulatory responsibilities over the applicant in connection with the handling or disposal of solid wastes.

6. A list and explanation of administrative consent agreements or consent decrees entered by any person named in subparagraphs (a)1 or (a)2 above for violations of environmental laws administered by the Board or other state agencies, the state, other states, the United States, or another country.

(b) Records disclosed under this rule shall be reviewed by the Board, in accordance with criteria approved by the Board. It is the permittee's continuing duty to disclose information as required by these rules, after the issuance of any transfer station permit.

(c) The Board may deny, suspend, or revoke a permit for a transfer station regulated under these rules if it finds that the owner, the operator, or any person having a

significant financial interest in the facility had been convicted of any felony violations or any criminal violation of environmental laws or has been adjudicated to have committed any civil or administrative violation of environmental laws administered by the Board, or other environmental laws or rules of the state, other states, the United States, or another country. In making this determination, the Board shall consider the following facts:

(i) The nature and responsibilities of the position that the individual held at the time of the offense, and the position that the individual will hold.

(ii) The nature and seriousness of the offense.

(iii) The date and circumstances under which the offense occurred.

(iv) Whether the offense was an isolated or repeat incident.

(v) Changes in management personnel, which have occurred in the organization since the offense was committed.

(vi) Any evidence of rehabilitation.

(d) In the case of any person convicted of violating any federal or state environmental laws, the Board shall consider whether such person has made all reasonable efforts to remediate or mitigate any environmental damage caused by such violation, or has made restitution to injured parties.

(e) The Board may deny, suspend, or revoke a permit if the applicant refuses to comply with the requirements of this rule, or if the information supplied is untrue or misleading as to the facts pertaining to any criminal or civil records reported, as required by this rule.

(f) Records received under provisions of this rule are to be considered confidential and are not subject to review by the general public.

Author: Phyllis C. Mardis; Dillon Bullard; Matthew Conner; Ken Stephens; Thad Pittman

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History: Adopted June 15, 1988; Filed June 20, 1988; effective July 25, 1988. Emergency Repeal and **New Rule:** Filed May 20, 1994; effective May 27, 1994. **Repealed and New Rule:** Filed October 20, 1994; effective November 24, 1994. Emergency Repeal and **New Rule:** Filed November 20, 1997. **Repealed and New Rule:**

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Ed. Note: Previous Rule .12 was renumbered .11 per certification published September 30, 2021; effective November 14, 2021.

420-3-5-.12 Performance Bonds.

Except as to imported solid waste, where evidence of the posting of performance bonds or other assurances as may be satisfactory to the local governing body is required for certain permits, and where the applicant for said permits is a governing body, said applicant may substitute in place of a performance bond a letter of assurance to the County Board of Health. Said letter shall state that the applicant shall take such measures as to prevent an insanitary condition or nuisance which adversely affects public health or the environment, and shall abate any such condition or nuisance as a matter of priority to the satisfaction of the LHD or the Board.

Author: Dillon Bullard

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

History: Adopted June 15, 1988; effective July 25, 1988.

Emergency Repeal and **New Rule:** Filed May 20, 1994; effective May 27, 1994. **Repealed and New Rule:** Filed October 20, 1994;

effective November 24, 1994. Emergency Repeal and **New Rule:**

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420-3-5-.13 Permit Or Certificate Denials, Suspension, Or Revocation.

(1) The Board or LHD may deny, suspend, modify, or revoke any permit or certificate issued, if the holder of the permit or certificate is found to be in violation of any of the permit or certificate conditions, fails to perform such activity in accordance with the approved plan, submitted false information, or if such activity creates a public health nuisance or is inconsistent with the act or these rules.

(2) The denial, suspension, or revocation of a permit or certificate shall be governed by the Alabama Administrative Procedure Act, §§41-22-1, et seq. Code of Ala. 1975.

Author: Phyllis C. Mardis, Karen Bishop, Dillon Bullard

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

History: Adopted June 15, 1988; effective July 25, 1988.

Emergency Repeal and **New Rule:** Filed May 20, 1994; effective May 27, 1994. **Repealed and New Rule:** Filed October 20, 1994;

effective November 24, 1994. Emergency Repeal and **New Rule:**

Filed November 20, 1997. **Repealed and New Rule:** Filed January

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420-3-5-.14 Transfer Of Permit Or Certificate Prohibited.

Permits or certificates are not transferable from one person to another; or from one site or facility to another.

Author: Karen Bishop

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

History: Adopted June 15, 1988; effective July 25, 1988.

Emergency Repeal and **New Rule:** Filed May 20, 1994; effective May 27, 1994. **Repealed and New Rule:** Filed October 20, 1994;

effective November 24, 1994. Emergency Repeal and **New Rule:**

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420-3-5-.15 Variances.

Written requests for a variance to these rules shall be submitted and considered and may be granted pursuant to the Board's Rule-making Procedures, specifically Rule 420-1-2-.09, Waivers or Variances, Ala. Admin. Code.

Author: Phyllis C. Mardis; Karen Bishop; Dillon Bullard; Thad Pittman

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

History: Adopted June 15, 1988; effective July 25, 1988.

Emergency Repeal and New Rule: Filed May 20, 1994; effective May 27, 1994. **Repealed and New Rule:** Filed October 20, 1994;

effective November 24, 1994. **Emergency Repeal and New Rule:**

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420-3-5-.16 Penalty Of Violations.

Any person who violates the provisions of these rules, shall, upon conviction be guilty of a misdemeanor and fined in accordance with Section 22-27-7 of the Code of Ala. 1975.

Author: Phyllis C. Mardis, Dillon Bullard

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

History: Adopted June 15, 1988; effective July 25, 1988.

Emergency Repeal and New Rule: Filed May 20, 1994; effective May 27, 1994. **Repealed and New Rule:** Filed October 20, 1994;

effective November 24, 1994. **Emergency Repeal and New Rule:**

Filed November 20, 1997. **Repealed and New Rule:** Filed January

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420-3-5-.17 Appeals.

(1) Permit denials, suspensions, and revocations. The denial, suspension, and/or revocation of a permit shall be governed by the Alabama Administrative Procedure Act, §41-22-1, et seq., Code of Ala. 1975.

(2) Hearings.

(a) Contested case hearings shall be provided in accordance with the Alabama Administrative Procedure Act, §41-22-1, et

seq., Code of Ala. 1975, and the Board's Contested Case Hearing Rules, Chapter 420-1-3 Ala. Admin. Code.

(b) Informal settlement conferences may be conducted as provided in the Board's Contested Case Hearing Rules.

(3) Revocation of Permits. The State Health Officer may, after providing opportunity for hearing, revoke a permit for violations of any of the requirements of these rules.

Author: Phyllis C. Mardis; Karen Bishop; Dillon Bullard; Thad Pittman

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

History: Adopted June 15, 1988; effective July 25, 1988.

Emergency Repeal and **New Rule:** Filed May 20, 1994; effective May 27, 1994. **Repealed and New Rule:** Filed October 20, 1994;

effective November 24, 1994. Emergency Repeal and **New Rule:**

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420-3-5-.18 Severability.

The rules, paragraphs, parts, items, and provisions of this chapter are severable. Should any portion thereof be ruled unconstitutional or unenforceable by any court, the said rules shall not affect any other provision of this chapter not ruled upon.

Author: Kimberly R. Rice, John-Paul O'Driscoll

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

History: Adopted June 15, 1988; effective July 25, 1988.

Emergency Repeal and **New Rule:** Filed May 20, 1994; effective May 27, 1994. **Repealed and New Rule:** Filed October 20, 1994;

effective November 24, 1994. Emergency Repeal and **New Rule:** Filed

November 20, 1997. **Repealed and Replaced:** Filed January 21, 1998;

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420-3-5-.19 Repealer.

All rules promulgated and adopted by the Board, which are in conflict with the chapter or any provisions thereof are hereby expressly repealed.

Author: Dillon Bullard

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), 22-10-1 et seq., 22-27-1, et seq.

History: Adopted June 15, 1988; effective July 25, 1988.

Emergency Repeal and **New Rule:** Filed May 20, 1994; effective May 27, 1994. **Repealed and New Rule:** Filed October 20, 1994;

effective November 24, 1994. Emergency Repeal and **New Rule:**

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