

APA-1

TRANSMITTAL SHEET FOR NOTICE
OF INTENDED ACTION

Control: 335

Department or Agency: Alabama Department of Environmental Management Land
Division - Solid Waste Program

Rule No.: Chapter 335-13-3

Rule Title: Processing and Recycling

Intended Action Amend

Would the absence of the proposed rule significantly harm or
endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police
power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available
that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly
increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm
that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the
purpose of, and so they have, as their primary effect, the
protection of the public? Yes

Does the proposed action relate to or affect in any manner any
litigation which the agency is a party to concerning the subject
matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be
accompanied by a fiscal note prepared in accordance with subsection (f) of Section
41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance
with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it
conforms to all applicable filing requirements of the Administrative Procedure
Division of the Legislative Services Agency.

Signature of certifying officer

Jeffery W. Kitchens
Jeffery W. Kitchens

Date

Wednesday, April 17, 2024

REC'D & FILED

APR 17, 2024

LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION - SOLID
WASTE PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

RULE NO. & TITLE: Chapter 335-13-3 Processing and Recycling

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Revisions to the ADEM Administrative Code Div. 335-13-3 are being proposed to clarify information regarding the application process, update requirements for notification and registration, amend variance requirements, and make general needed updates throughout to be consistent with the statute.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held at 1:30 p.m., June 20, 2024, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110. Attendance at the hearing is not necessary to present such data, views, arguments, or comments. All comments should be received by 5:00 p.m., June 20, 2024.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, June 20, 2024

CONTACT PERSON AT AGENCY:

Lynn T. Roper, 334-271-7728

Jeffery W. Kitchens

Jeffery W. Kitchens

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION -
SOLID WASTE PROGRAM
ADMINISTRATIVE CODE

CHAPTER 335-13-3
PROCESSING AND RECYCLING

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—

This regulation establishes the operating standards applicable to Materials Recovery Facilities, ~~Recoverable Materials Processing Facilities, and other facilities that receive, store, process and sale recovered materials that are not used on any on-site, end-use manufacturing process~~ Recovered Materials Processing Facilities, and other facilities that receive, store, process and sell recovered materials. These regulations further establish the minimum reporting and recordkeeping requirements necessary for subject facilities. Subject facilities include, but are not limited to, those that recover recyclable materials from the solid waste stream, ~~are those that initially~~ obtain recyclable materials which have been removed from the solid waste stream and determined to be recyclable by the generator of those materials, and end use facilities as defined in rule 335-13-1. In addition, these regulations establish notification requirements of End Use Manufacturing Facilities/ End Use Facilities. ~~. The requirements of this Chapter are not applicable to end-use facilities where recyclable or recovered materials are received by that facility strictly for use in its manufacturing process as a fuel, raw material or as a substitute for a commercial product.~~

Author: Phillip D. Davis, M. Gavin Adams. Jason Wilson, Blake B. Pruitt

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

History: Repealed: June 21, 1996; effective July 26, 1996. **New**

Rule: Filed June 28, 2010; effective August 2, 2010. Amended:
Published ; effective .

335-13-3-.02

Facility Registration and Notification.

—
(1) No person may receive, store, process or transfer recyclable material or recovered material without being properly registered with the Department, except as described in Rule 335-13-3-.02 ~~(3)~~ (5). Any person who operates a Materials Recovery Facility or a Recovered Materials Processing Facility, without having applied for registration with the Department shall be considered to be operating an unpermitted solid waste management facility and shall be subject to enforcement action in accordance with this Division.

—
(2) ~~The owner or operator~~All applications, reports required by permits or registrations, or other information requested by ADEM shall be signed and completed electronically by a responsible official as defined in 335-13-1-.03 or by a duly authorized representative.

—
(3) All existing registered facilities will be subject to periodic renewal of the initial registration issued by the Department. Within one hundred eighty (180) days of the effective date of these regulations, all existing registered facilities shall submit an application for registration renewal on a form designated by Department. Facilities that do not submit an application for registration renewal within one hundred eighty (180) days of the effective date of these regulations, shall have their registration deactivated. ~~of each facility in existence on the effective date of this Rule shall file an application for registration with ADEM not later than October 1, 2010. The owner or operator of each new Materials Recovery Facility or Recovered Materials Processing Facility desiring~~

—
(4) Each registration issued will be valid for five (5) years. Renewal applications must be submitted electronically at least

forty-five (45) days prior to expiration. Facilities that begin operation after the effective date of ~~this Chapter shall file an application for registration at least forty-five (45) days prior to receiving materials, or by October 1, 2~~these regulations shall submit an application electronically for registration at least forty-five (45) days prior to receiving materials.

~~_010, whichever is later.~~

(a) ~~Each~~The following information shall be submitted electronically by the owner or operator of the Materials Recovery Facility or Recovered Materials Processing Facility ~~on-owner or operator of a subject facility shall register with ADEM utilizing a form designated by the Department. In addition to the designated form, the following information shall be submitted:~~

1. An ~~initial~~accurate physical address, latitude and longitude of the front access gate of the facility, mailing address (if different from physical address), owner or operator information, and facility contact information.

2. A listing of the types and estimated tons of material or materials to be received, stored, processed or transferred by the facility ~~in a manner to be specified by the Department.~~

3. A general description of the destination (further processor, end use, or disposal) ~~for. A general description of the plans for end-market uses of~~ all materials to be collected, stored and processed. Such plans are not required to include specific information on quantities to be shipped to specific facilities, names of facilities or other information that may be ~~deemed~~established as business confidential by the registrant.

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

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

6. A site plan map which identifies and plots the location of all equipment, buildings, activities and areas related to the receipt, storage, processing, and transferring of all unprocessed and processed recyclable materials.

~~6. A statement that the facility is in compliance with the applicable requirements of ADEM Administrative Code Division 335-6, including but not limited to, permitting and best management practices (BMP).~~ _

7. A list of Departmental Permits, Registrations, and Certifications along with their respective Department assigned ID numbers, as applicable.

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8. An operations plan which shall include, at a minimum, the following:

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(i) Days and hours of operation of the facility and a description of when facility personnel will be on-site during hours of operation. If the facility is to include a drop-off point for after-hours operation or periods when facility will be unstaffed, a description of methods to prevent drop-off of non-acceptable or non-recoverable materials must be included.

_

~~(ii) A general listing of material types and anticipated tonnages to be received by the facility on a monthly basis and any size, weight or other restrictions placed on materials to be accepted.~~

~~(iii) A written narrative~~ description of facility operation from the receipt of recyclable materials to the point of transfer to end-~~users~~use manufacturing facilities, other recovered materials processing facilities, or disposal facilities.

~~(iv)~~ _

(iii) The maximum amount of each material to be stored or stockpiled at the facility. Owners/operators maintaining this information in volume shall convert and indicate the conversion methodology to weight in tons.

~~(v)~~ _

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

~~(vi)~~_

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

~~(vii)~~_

(vi) A description of the storage areas utilized for recovered materials to include indoor or outdoor, surfaces of storage areas, and methods to segregate materials to facilitate end-use.

~~(viii)~~_

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

~~(ix)~~_

(viii) A description of methods used to control vectors of public health importance which shall include, but not be limited to, rodents, flies and mosquitoes, and dust and litter at the facility. Such control shall be consistent with the administrative rules of the Health Department and the Department.

—

(b) Registrations are not transferable.

—

1. If a registered facility has a change in ownership, the prospective new owner shall register with the Department at least thirty (30) days prior to assuming ownership of the facility.

—

2. Changes in the name of a facility also require notification to the Department thirty (30) days prior to the ~~effect of the name change, and may require the payment of fees associated with such change that are required by Departmental regulation~~effective date of the name change, and require the payment of fees associated with such change in accordance with Departmental rules.

—

(c) If a materials recovery facility is found to be in significant noncompliance with the requirements of ~~this Division~~335-13, the registration for the facility may be revoked or the application for registration denied by the Director.

—

1. The facility may request an informal conference with ADEM to discuss the revocation or denial by ADEM. Following this informal conference, the Director shall advise the facility of the final determination on the registration.

—

2. The registrant shall be responsible for the compliance of the registered facility with all applicable rules ~~not withstanding~~notwithstanding the performance of compliance-related duties by independent contactors or agents.

—

(d) A registered facility that discontinues receiving, processing or utilizing recovered materials shall notify ADEM ~~within thirty (30) days of a change in operations and request that their registration be terminated~~thirty (30) days prior to a change in operations and request that their registration be deactivated. A closure plan for the facility must be submitted in accordance with ~~Rule~~ 335-13-3-.07. All recovered materials and solid wastes shall be removed from the facility in accordance with the closure plan as outlined in 335-13-3-.07 before ADEM will deactivate~~before ADEM will terminate~~ the registration. Such removal shall be in accordance with all applicable regulations regarding recycling or disposal.

—

(e) The Department may specify in the registration for a facility the quantity and nature of recovered materials to be managed, in accordance with the application.

~~(3)~~ —

(5) Exemptions. The following activities are exempt from the registration requirements imposed by ~~this Chapter. A facility engaged only in these activities is not required to register with ADEM under this Chapter~~335-13-3. A facility engaged only in these activities is not required to register with ADEM under 335-13-3.

—

(a) The receipt of source-separated recyclable asphalt and pre-consumer asphalt shingles or other asphalt based roofing, or a combination thereof by an asphalt manufacturing plant prior to its introduction into the asphalt manufacturing process.

(b) The recycling or reuse of materials which are generated, processed, and reused as a product, raw material or fuel exclusively at the point of generation by facility personnel or on-site contractor operations which are directly related to the operation of the facility.

(c) The receipt, storage, processing or transfer of grass clippings or other yard wastes, branches, stumps, limbs, brush, wood chips derived from tree parts, and/or other non-putrescible, non-food wastes which is regulated separately by ADEM under regulations regarding composting facilities and/or is specifically exempted from solid waste regulations.

(d) Scrap tire processing regulated under ~~Division~~ 335-4 Regulations.

(e) The processing and/or recycling of used oil and/or wastes regulated under ~~Division~~ 335-14 regulations, to include universal waste, provided only used oil ~~and~~-or wastes regulated under ~~Division~~ 335-14 are processed.

(f) Construction or contracting activities which, through the course of such activities generate source-separated recyclable materials to include asphalt, concrete, brick, or block, may store, process, or transfer the material provided all of the following apply:

1. The company or contractor is the generator of the materials.

2. Materials are stored in compliance with all applicable laws and regulations, including stormwater ~~BMP~~BMPs as required under 335-6.

—

3. Materials are stored on-site for a period not to exceed the shorter of one-year from generation or the completion of the construction project.

~~(g) Solid waste incinerators and waste-to-energy facilities that are regulated subject to the requirements of Division 3 of the ADEM Administrative Code, or similar local air pollution control regulations. These facilities shall be subject to the requirements of Rule 335-13-3-.04.~~

~~(4) Variances.~~

~~(a) Requests for variances from the requirements of this Chapter must be made in writing to ADEM and shall include sufficient documentation and information to allow ADEM to make a final determination on the variance request. Such documentation and information may include, but not be limited to:~~

~~1. A clear and complete statement of the precise extent of the relief sought including specific identification of the particular provisions of the regulations from which the variance is sought.~~

~~2. A concise factual statement with supporting evidence, environmental, economic and/or otherwise that establishes the need for the variance.~~

~~3. A statement of the impact that the variance will impose on public health and the environment.~~

~~4. A description of how granting of the variance will affect operations at the facility.~~

~~5. Any additional information as may be requested by the Department as necessary to evaluate the variance request.~~

~~6. The timeframe for which the variance is sought, if less than the applicable 3 year period as specified in Rule 335-13-3-.02(4)(d).~~

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

~~(c) After review of the variance request, ADEM shall notify the applicant of its final decision regarding the request.~~

~~(d) A variance granted by ADEM shall be valid for a period of three (3) years. Application for renewal shall be made in writing and submitted to ADEM at least thirty (30) days prior to the expiration date of the current exemption.~~

~~(e) If processes or conditions that warranted the variance for the facility change during the term, the facility shall notify ADEM within thirty (30) days of the change. ADEM may terminate the variance on substantive changes to conditions upon which the original variance was granted.~~

~~(5)~~ (6) Certification. All applications, reports, requests for variances or exemption shall be signed by a responsible official or by a duly authorized representative as defined in 335-13-1-.03.~~representative as follows:~~

~~(a) For a corporation, by a principal executive officer of at least the level of vice president, or his designee through a written delegation of this authority.~~

~~(b) For a partnership or limited partnership, by a general partner.~~

~~(c) For a sole proprietorship, by the proprietor.~~

~~(d) For a municipality, State, federal or other public agency to include governmental non-profit organizations, by either a principal executive or ranking elected official.~~

~~(e) For a limited liability company, by a manager designated by the members of the limited liability company to manage the limited liability company as provided in the articles of organization.~~

~~(f)~~ All applications, reports, requests for variance or exemption shall contain the following statement, to be ~~signed~~certified by a responsible official or authorized representative:

—
"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the

information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

—

(7) End Use Facility Notification. The owner or operator of an End Use Manufacturing Facility or End Use Facility shall submit a notification of operation to the Department. The responsible official, owner, or operator of each facility shall submit an electronic notification with the following information:

—

(a) An accurate physical address, mailing address (if different from physical address), owner or operator information, and facility contact information.

—

(b) List of the types of materials to be received, stored, processed, or transferred by the facility.

Author: Phillip D. Davis, M. Gavin Adams, Jason Wilson, Blake B. Pruitt

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

History: Repealed: June 21, 1996; effective July 26, 1996. **New**

Rule: Filed June 28, 2010; effective August 2, 2010. **Amended:**
Published ; effective .

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

—

(1) Facility Design and Operation. Registered Materials Recovery Facilities and Recovered Materials Processing Facilities shall be designed and operated according to this ~~section~~rule in order to remain a properly registered facility. ~~Registered facilities that hold a valid NPDES permit shall be exempt from the facility design requirements of this Section.~~

—

(a) Failure to maintain minimum standards and operational requirements may result in revocation of the registration and may cause the facility to be subject to additional requirements of

335-13 and regulated as a Solid Waste Disposal Facility as defined in 335-13-1 or an unauthorized dump in accordance 335-13-1-.13~~registration and may cause the facility to be subject to and regulated under this Chapter as a Solid Waste Disposal Facility.~~

~~(b) Any facility in existence prior to the effective date of these regulations has one (1) year from the effective date of these regulations to comply with provisions for facility design and operation.~~

(2) Acceptance of Recyclable Materials. A facility may accept materials in accordance with the terms of ~~its~~the registration and in accordance with the materials listing provided by the facility with its registration application.

—
(a) Each facility shall notify the Department upon accepting any materials not previously approved in the registration. ~~Such notification shall be made in writing and be signed by the owner/operator or other responsible official as designated in the registration application. Notification is not required before accepting materials not designated in the registration application, but should be made as soon as practicable after materials acceptance.~~A registration modification application including the new material(s) must be submitted electronically to the Department within thirty (30) days of initial receipt.

—
(b) A facility regulated under ~~this Chapter~~these rules shall not accept recyclable materials without the proper receipt and documentation as required under 335-13-3-.05.

—
(c) No facility may accept, receive, purchase, or acquire any charred metal wire unless the registrant can demonstrate through receipts or other documentation that the material originated from a facility properly operating in accordance with applicable air pollution control requirements, including necessary permits and processing equipment with appropriate emission control devices.

—
(3) Recyclable Materials - Material Segregation and Storage. Recyclable materials ~~accepted by a facility must be properly segregated according to material type and stored in accordance with this section~~must be properly segregated according to

material type and stored in accordance with this rule. Storage of recyclable materials shall be in a manner to protect the integrity of the materials.

—

(a) A receptacle or area, such as a tipping pad/floor, should be designated for the receiving of incoming materials. The designated receptacle or area should be constructed in such a manner as to prevent exposure to precipitation and migration of materials off-site due to stormwater runoff, wind, or track-out by vehicles entering or leaving the facility site.

~~(a)~~ _

(b) All receptacles or storage areas utilized for the storage of recyclable and waste materials should be separated from other receptacles or storage areas by a buffer such that all equipment for the movement of such materials may operate without migration of materials away from receptacle or storage areas.

—

1. Buffers between storage and ~~or~~ processing areas should be sufficient to minimize the commingling or combining of segregated material types to the extent that would adversely impact the ability to recycle the materials.

—

2. Unless specified differently in a facility's BMP plan, a buffer of no less than fifty (50) feet in width should be established and maintained between areas utilized for facility operations and the property boundaries in order to minimize migration of recyclable materials off-site. This buffer requirement shall not apply to materials located within enclosed warehouses or other buildings, nor to materials to be utilized on-site in the facility's manufacturing or processing activities.

~~(b)~~ _

(c) Materials received by the facility shall be moved to the appropriate segregated storage area within seven (7) days of receipt.

—

(4) Recyclable Materials - Receptacles. Each facility should store materials in receptacles where necessary to protect the

integrity and/or marketability of accepted materials and to prevent migration of materials off-site.

(a) ~~If necessary, all~~ All loose, unbaled newsprint, paper, and corrugated paper and cardboard should be stored in closed containers unless stored ~~under a structure suitable to prevent intrusion of rainwater and stormwater, and protected in a~~ structure suitable to prevent intrusion of rainwater and stormwater, and to protect materials from the exposure to the elements.

(b) All receptacles utilized to store recyclable materials and those utilized to store contaminated and/or non-recyclable materials generated or received by the facility as a small portion of recyclable shipments or drop-offs shall be clearly marked with the type of material to be deposited. No material other than that specified shall be deposited or stored therein.

(c) Exceptions to the requirement for receptacle storage may include the storage of materials which have been baled or otherwise bound to prevent migration of materials off-site.

(5) Storage Areas. Storage areas shall be maintained to prevent contamination of segregated materials. Materials not intended for recycling and destined for disposal shall be stored separately. Materials received or to be shipped shall be segregated and stored to prevent track-off and migration off-site.

(6) Signage. Each facility shall have and maintain at least one sign, clearly visible and legible from off-site, which states the name, address and telephone number of the registrant, recycling registration number, or owner/operator if different than the registrant contact, the types of materials accepted by the facility and, the hours during which the facility shall be open to the public, ~~and the name of the nearest permitted solid waste disposal facility and/or alternate materials recovery facility~~.

(7) Storage Areas to Be Kept Clean. The area surrounding receptacles or storage areas whether indoors or outdoors, should at all times be maintained in a clean manner. No recyclable or waste materials of any kind should be allowed to overflow from or accumulate around any receptacles or storage areas.

(8) Inspection by Owner/Operator or Responsible Person. The owner, operator or designated responsible person of each facility regulated under this ~~Chapter~~rule shall inspect the facility at least weekly. Such inspections shall be documented in an inspection log ~~by~~which includes date of inspection, person performing the inspection, areas of concern and corrective actions. Inspections shall include the following items:

(a) Existence of contamination in segregated storage areas. ~~Included shall be~~ which includes material storage areas containing more than one recyclable material type, and contamination of recyclables by solid wastes intended for disposal.

(b) Existence or the potential for recyclable material, or solid wastes intended for disposal, to migrate off-site either through stormwater runoff, wind or track-off by vehicular or equipment traffic.

(c) Unauthorized drop-off of wastes or materials not properly delivered to the facility such as those placed outside the facility boundary or any existing secured areas, and materials not accepted by the facility for recycling.

(d) Documentation of inspection findings requiring corrective action, including a description of the action taken and the date and time of the corrective action. Such corrective actions should be initiated within 48 hours of discovery.

(9) Fencing and Security. Facilities registered pursuant to ~~this Chapter~~these rules shall be secured by fencing or utilize other

means of access control as necessary to prevent unauthorized disposal or removal of recyclable materials or solid wastes.

Author: Phillip D. Davis, M. Gavin Adams. Jason Wilson, Blake B. Pruitt.

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

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Rule: Filed June 28, 2010; effective August 2, 2010. Amended:
Published ; effective .

335-13-3-.04

Storage And Accumulation Limitations.

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(1) ~~Storage Limit. As determined on a yearly basis, each registered facility shall transfer at least 75% of the amount of material accumulated that is diverted from the solid waste stream or processed for recycling. Each facility in operation on the effective date of these regulations shall demonstrate through sufficient documentation that it is in compliance with the 75% requirement for the year of the effective date of these regulations. Each new facility beginning operation after the effective date of these regulations shall meet this~~
storageAccumulation Limitations. As determined on a yearly basis (January through December), each registered facility shall transfer at least 75% of the amount of recovered material by weight or volume of that material accumulated that is recycled or diverted from the solid waste stream or processed for recycling to a Recovered Materials Processing Center or End Use Facility. Each new facility beginning operation on the effective date of these regulations shall meet this accumulation limit for that portion of the year in which the facility begins receiving materials for recycling or processing. The following conditions must be met in order to satisfy the 75% accumulation limitation requirement:

—

(a) Speculative accumulation of recyclable materials is not allowed.

—

1. A material is not speculatively accumulated if the person accumulating it can show that the material is potentially recyclable, has a feasible means of being recycled and adheres to the following requirements:

—
i. During the calendar year (commencing on January 1) the amount of material that is recycled, recovered, or transferred to a different site for further recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the year.

—
ii. Recovered materials are processed and sorted in accordance with 335-13-3-.03 and placed in a storage unit with a label indicating the first date that the material began to accumulate.

—
iii. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method.

—
iv. In calculating the percentage of recovered material, the 75 percent requirement is applied to each recovered material of the same type that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way).

—
v. Any remaining material at the end of the calendar year, beyond that calculated in the 75 percent requirement as described in 335-13-3-.04(1)(a)1.iv., must be counted as received material in the following calendar year.

—
vi. The accumulated volume of unprocessed recyclable material shall not exceed the amount which can be processed within a 6-month period.

—
vii. All unprocessed recyclable material must be managed as items of value (e.g. prevent deterioration and breakdown, protection from the elements, runoff prevention, prevent wind dispersion, and fire protection).

—

viii. Upon processing, non-recyclable materials shall be disposed in accordance with 335-13.

—

ix. Recovered materials must be managed as items of value as outlined in 335-13-3-.04(1)(a)1.vii.

—

(b) Recordkeeping. Each facility shall maintain records of all materials received by and shipped from the facility regardless of material type, origin or destination, in accordance with the requirements of ~~Rule~~ 335-13-3-.04.

~~(b)~~ _

1. Such records shall be available for inspection by the Department. Upon written notice, copies of these records shall be submitted to the Department.

—

(c) For the purposes of this ~~section~~rule the term “year” shall be the calendar year commencing on January 1 and ending on December 31.

—

(d) Each facility in operation on the effective date of these regulations shall demonstrate, through certification of annual reports utilizing the language from 335-13-3-.04(2)(d), that it is in compliance with the 75% requirement for the year of the effective date of these regulations.

—

(e) Extensions, not to exceed one year, may be granted by the Department for just cause (e.g. End User Facility shutdown, change in market conditions, etc.).

—

(2) A registered facility may request a temporary exemption from this requirement, ~~by submitting such a written request to the Department within forty-five (45) days after~~ by submitting a written request to the Department at least fifteen (15) days before the accumulation time-frame has been exceeded. Such request shall contain the following:

—
(a) Material(s) type, quantity, and current method of segregation and storage.

—
(b) Efforts to move material to an end-use destination including names and phone numbers of end-user contacts.

—
(c) Estimate of additional quantities of material(s) type to be accepted.

—
(d) The following statement, certified by the responsible official or representative:

—
"I hereby certify as an owner, operator, representative, or responsible official ~~or responsible person~~ associated with the named facility, that the information supplied and statements made in this request are true and accurate, and that failure to comply with the 75% requirement is not due to speculative accumulation or in violation of other requirements of this Chapter. Furthermore, I understand that continued non-compliance with the 75% requirement may result in the facility registration being revoked, and/or enforcement action by the Department, including substantial civil penalties being imposed."

—
(3) Such exemption shall be valid for a period determined by the Department, but not to exceed one year. ~~Extensions of the exemption beyond one year are subject to review and approval by the Department and must be requested in writing by the registered facility in accordance with the requirements of Rule 335-13-3-04(2).~~—

—
(4) Continued non-compliance with the storage time limit requirement may result in the revocation of the facility registration and/or enforcement action by the Department which may include civil penalties and/or a requirement for disposal of the accumulated materials in accordance with ~~this Chapter~~ 335-13-3.

—

(5) Records must be maintained ~~in a sufficient manner as to be used to verify facility compliance with the seventy-five percent (75%) rate required by this section~~at the facility and available for inspection as required by 335-13-3-.05(4) and reporting requirements must be met so that the Department can verify facility compliance with the seventy-five percent (75%) rate required by 335-13-3-.04.

Author: Phillip D. Davis, M. Gavin Adams. Jason Wilson, Blake B. Pruitt.

Statutory Authority: Code of ~~Ala.~~Alabama 1975, §§22-27-02, 22-27-12, 22-27-15, 22-27-16.

History: Repealed: June 21, 1996; effective July 26, 1996. **New**

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335-13-3-.05

Recordkeeping And Reporting Requirements.

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(1) Except as provided in Rule 335-13-3-.05(3), no materials may be accepted by a facility registered ~~under this Chapter in accordance with 335-13-3~~ from any person or entity without the completion of a receipt documenting the material acceptance. A receipt must be completed for each shipment of materials received by the registered facility. A copy of each receipt shall be provided to the person or entity delivering the materials, and a copy maintained by the registered facility. Copies of all receipts maintained by the facility shall be available for inspection by the Department, and shall be utilized to generate ~~semi-annual reports as required by this section~~annual reports as required by this rule. All receipts must contain the following information:

—

(a) Description of materials received listed by material type.

—

(b) Weight of each material type in 335-13-3-.04(1)(b) above, expressed in tons.

—

(2) A receipt shall be completed for the total shipment of materials where:

—
(a) Materials are delivered by a contractual waste or recycling hauler.

—
(b) Materials are delivered where collected from drop-off boxes or publicly accessible drop-off centers.

—
(c) Materials are delivered where collected during public recycling events.

—
(3) The requirement for a receipt shall not apply to recyclable materials accepted in the following cases:

—
(a) Materials delivered by a person in quantities as can be expected from normal individual household generation.

—
(b) Materials delivered to an unmanned drop-off or collection box location where no personnel would be available to complete a receipt.

—
(4) Records required in accordance with 335-13-3 shall be maintained at the facility for a minimum of three (3) years and made available for inspection by ADEM personnel upon request.

—
(5) Each facility subject to 335-13 shall prepare and submit an annual report in a form designated by the Department. The report shall include~~Each facility subject to this Chapter shall prepare semi-annual reports of~~ all recyclable materials or recovered materials transferred, sold, or conveyed out of state, to further processors, to materials brokers in the State of Alabama, or to end-use manufacturers in Alabama~~who use the materials as a fuel, raw material, or as a substitution for a commercial product.~~
These reports shall indicate the following:

—

(a) A record of the amounts of each material accepted from the initial generators by type and quantity, expressed in tons. Owners/operators maintaining this information in cubic yards shall convert and indicate the conversion methodology to tons for the purposes of the ~~semi~~-annual report.

—

(b) The amount of each material type expressed in tons transported to further processors or end-~~market users~~. ~~End-Market users~~ use facility/end-use manufacturing facility. End-Use facilities which recycle or re-process their own materials generated on-site or materials received from generators in quantities as can be expected from normal individual household generation, shall report the amounts of each material type recycled. Owners/operators maintaining this information in cubic yards shall convert and indicate the conversion methodology to tons for the purposes of the ~~semi~~-annual report.

—

(c) The type and quantity of material, expressed in tons, to include residues or non-recyclable materials removed from the facility by a solid waste collector/hauler and destined for disposal, and the name, address and telephone number of the hauler. Owners/operators maintaining the quantity information in cubic yards shall convert and indicate the conversion methodology to tons for the purposes of the ~~semi~~-annual report.

~~(5)~~—

(d) A statement of compliance that the facility complied with the requirements of 335-13-3-.04.

—

(6) Each facility registered pursuant to this ~~Chapter shall submit a semi-annual report containing the totals and monthly summaries of the information provided in subparagraphs (a), (b), and (c) of Rule 335-13-3-.05(4) above to the Department on or before February 15 and August 15 of each year for the preceding six month periods of July 1—December 31 and January 1—June 30, respectively. Semi-annual reports must be signed~~rule shall submit an annual report containing the totals and monthly summaries of the information required in 335-13-3-.05(5) above to the Department between January 1 and February 15 with the previous calendar year's information. Annual reports must be certified by the responsible official or representative of the facility and shall include a statement that all materials accepted or generated by the facility which were not sent to an

end-user or reused on-site were properly disposed of in accordance with ~~this Division~~335-13.

~~(6)~~ _

(7) Each facility exempt from registration in accordance with Rule 335-13-3-.02 ~~(3) shall submit a semi-annual report containing the applicable information as specified in subparagraphs (a) and (b) of Rule 335-13-3-.05~~ (4) (5) shall submit an annual report containing the applicable information as specified in 335-13-3-.05 (5) above. These reports shall be submitted to the Department in accordance with the requirements of Rule 335-13-3-.05 ~~(5)~~ (6).

~~(7)~~ _

(8) Information submitted by a facility may be considered confidential by the Department in accordance with the requirements of ~~Rule 335-1-1-.06, if requested by the facility in writing~~335-1-1-.06, upon a showing, in writing, satisfactory to the Director, that divulgence of records, reports, or information, or particular parts thereof (other than emission, effluent, manifest or compliance data) to which the Department has access, if made public, would divulge production of sales figures or methods, processes, or production unique to such person, or otherwise tend to affect adversely the competitive position of such person by revealing trade secrets. Information submitted to the Department which is requested to be held confidential in nature may be utilized by the Department in conjunction with other submitted data such that the information is not attributable to a specific facility. Such use may include the generation of Departmental reports or other summaries of a regional or statewide nature.

~~(8) Records required by this Chapter shall be maintained at the facility for a minimum of three (3) years, and made available for inspection by ADEM personnel upon request.~~ _

Author: Phillip D. Davis, M. Gavin Adams. Jason Wilson, Blake B. Pruitt.

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

History: Repealed: June 21, 1996; effective July 26, 1996. **New**

Rule: Filed June 28, 2010; effective August 2, 2010. **Amended:**
Published ; effective .

335-13-3-.06

Inspection Of Facilities.

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(1) A facility registered under this ~~Chapter~~rule shall, upon request of a duly authorized representative of the Department, permit the representative to enter, at all reasonable times, property and buildings to inspect facility operations, records and equipment, and to conduct monitoring or sampling activities as necessary to evaluate the facility's compliance with the requirements of ~~this Chapter and the ADEM Administrative Code~~these rules.

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(2) The registrant, owner or operator shall assure that all records and documentation as may be required to determine compliance with ~~this Chapter~~these rules are available for inspection and/or audit upon request by the Department.

—

(3) The Department may require the registrant to prepare materials for inspection. Such preparation may include, but not be limited to the disassembly of bales, or spreading of segregated materials to facilitate inspection.

Author: Phillip D. Davis, M. Gavin Adams. Jason Wilson, Blake B. Pruitt.

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

History: Repealed: June 21, 1996; effective July 26, 1996. **New**

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335-13-3-.07 Closure Of Facilities.

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(1) No person shall close a registered facility without submitting ~~written~~ notification to the Department at least thirty (30) days in advance of the closure. Such ~~written~~ notification shall contain the following.

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(a) Name, address and telephone number of the facility and of the location of the owner, operator, or responsible person following facility closure.

—

(b) Reason for closure to include factor(s) leading to the closure decision.

(c) ~~Written plans~~Plans for notifying the facility's customers of the closure. Such notification to customers shall include the placement of signs of suitable size at the entrance to the facility indicating the closure date of the facility and/or last date materials to be accepted, if different than the closing date. Such notification shall also include the location of the nearest available recycling and/or solid waste disposal facility.

(d) Plans and methods for the prevention of recyclable materials and other solid wastes to accumulate at the facility following closure, and the plans for disposition of such materials in compliance with applicable regulatory requirements.

(2) All solid waste and recyclable materials shall be properly removed from the facility prior to closure, potential nuisance conditions shall be addressed, and, if necessary, the site shall be stabilized to prevent migration of sediment off-site due to stormwater runoff.

Author: Phillip D. Davis, M. Gavin Adams. Jason Wilson. Blake B. Pruitt.

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

History: Repealed: June 21, 1996; effective July 26, 1996. **New**

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335-13-3-.08

Variances.

(1) Variances. The Department may grant individual variances from the specific provisions in 335-13-3 based upon the procedures described in 335-13-3-.08 whenever it is found by the Department, upon presentation of adequate proof, that non-compliance with the requirements of 335-13-3 will not threaten the public health or unreasonably create environmental pollution. Variances per se are not favored by the Department.

(2) Applicability. Any person may request a variance from specific provisions of 335-13-3 by filing a Petition for Variance with the Department.

(3) Variance petition requirements that shall be included in the petition:

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(a) A clear and complete statement of the precise extent of the relief sought including specific identification of the particular provisions of the regulations from which the variance is sought.

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(b) An assessment, with supporting factual information, of the impact that the variance will impose on public health and the environment in the affected area.

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(c) Any additional information requested by the Department as necessary to evaluate the variance request.

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(d) A concise factual statement of the reasons the petitioner believes that non-compliance with the particular provisions listed in 335-13-3 will not threaten the public health or unreasonably create environmental pollution.

(e) Applicable fees in accordance with 335-1.

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(4) Departmental Action on Petition for Variance. On receipt of a Variance Petition, the Department will authorize one of the following actions:

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(a) The petition may be dismissed if the Department determines that it is not adequate in accordance with the requirements of 335-13-3-.08.

(b) The Department may grant the variance as petitioned or by imposing such conditions in accordance with 335-13-3 requirements, including the establishment of schedules of compliance and monitoring requirements.

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(c) The Department may deny the petition. If such a denial is made, the Department shall notify the petitioner in writing the reasons for denial and outline the procedures for an appeal as described in 335-2-1.

—
(5) Termination of Variance. Any variance granted by the Department may be terminated by the Department whenever the Department finds, after notice to the facility, that the petitioner is in violation of any requirement, condition, schedule, limitation or any other provision of the variance or that operation under the variance does not meet the minimum requirements established by the state and federal laws and regulations or is unreasonably threatening the public health.

Author: Jason Wilson. Blake B. Pruitt.

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

History: New Rule: Published ; effective .

335-13-3-.09

State Agencies and Public School Systems.

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(1) The Department shall assess the status of recycling efforts for solid waste generated by the operations of state agencies and public school systems. The Department shall evaluate existing programs and assist in development of necessary new programs for recycling to reduce the generation of solid waste by the state.

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(2) Each agency shall submit electronically a report annually (January through December) by March 1st to the Department on the implementation and results of its program. Reports shall be submitted on forms provided by the Department.

—
(3) State agencies and public school systems are encouraged to coordinate their efforts to assure the maximum benefit of recycling efforts and to increase access to markets for recyclable materials. State agencies and public school systems may jointly enter into contracts with one another or third

parties for the management of recyclable materials as provided herein.

Author: Jason Wilson, Blake B. Pruitt.

Statutory Authority: Code of Alabama 1975, §§22-22-B-3, 22-27-12, 22-27-15 and 22-27-16.

History: **New Rule:** Published ; effective .