APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No.:	335
Department or Agency:	Alabama Department of Environmental Management Land Division - Scrap Tire Program
Rule No.:	335-4-2-.04
Rule Title:	Remediation Contracting
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

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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: Friday, September 18, 2026

REC'D & FILED
SEP 18, 2026
LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - SCRAP TIRE PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

RULE NO. & TITLE: 335-4-2-.04 Remediation Contracting

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:
Revisions are proposed to update language to include Solicitation Notices and the use of Alabama's electronic procurement system, to clarify the deadlines for cost proposal and to clarify requirements for remediation contractors.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:
Comments may be submitted in writing or orally at a public hearing to be held at 10:00 a.m., November 19, 2026, 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., November 19, 2026. Written submissions and other inquiries should be directed to:
ADEM Hearing Officer, Office of General Counsel, Alabama Department of Environmental Management, P.O. Box 301463, Montgomery, AL 36130-1463 (street address: 1400 Coliseum Boulevard, Montgomery, AL 36110-2400) or by e-mail at hearing.officer@adem.alabama.gov.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Thursday, November 19, 2026

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)

335-4-2-.04 Remediation Contracting.

(1) Approved Contractors List.

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

(b) ADEM will place a notice on the Department's website requesting technical proposals from prospective remediation contractors.

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

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

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

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

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

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

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

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

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

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

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

(e) The approval of a remediation contractor shall in no way establish liability or responsibility on the part of ADEM, STC or the State of Alabama in regard to the services provided by the contractor or circumstances which may occur as a result of the services, nor guarantee that the contractor will receive STF funded work.

(2) Contractor Selection.

(a) Once a scrap tire site has been determined by ADEM to be eligible for STF remediation, ADEM shall issue a Solicitation Notice/Request for Remediation Plans and cost proposal breakdown from those contractors on the approved contractor list utilizing Alabama's electronic procurement system in accordance with Code of Alabama 1975, §§41-4-110 to 41-4-176,

Division of Purchasing. The Request for Remediation Plans shall identify the site, scope of work, and a deadline for submittals.

(b) Interested remediation contractors shall submit, as described in 335-4-1-.03, ~~one (1) set of its~~a Remediation Plan, prepared in accordance with 335-4-2-.01(5) for closure of the scrap tire site.

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

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

1. Detailed scope of work.

2. Schedule for completion of the work.

3. Recordkeeping and reporting requirements.

4. Maximum amount of remediation cost reimbursement.

5. Methods of payment to the contractor.

6. Reserve to be held until completion of the work.

7. Provisions for removing the contractor for inadequate performance.

(3) Contractor Performance.

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

(b) If the costs of completing the activities in the approved scope of work are estimated to exceed the amount of funds obligated from the STF, an amended Remediation Plan shall be submitted that details the cost increases proposed. ADEM shall review the amended Plan, and, if costs projections are justified, shall approve the amended Remediation Plan, modify the approved scope of work, and obligate more funds from the STF before the additional work may proceed. However, there shall be a presumption against allowing amendments to

Remediation Plans for failure to adequately estimate costs. To justify increased cost projections, extraordinary reasons must be shown to exist that were not known at the time the scope of work was approved by ADEM.

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

Author: James L. Bryant, M. Gavin Adams, Brent A. Watson; Michael J. Cruise
Statutory Authority: Code of Ala. 1975, §22-40A-1 et seq.
History: **New Rule:** Filed June 30, 2004; effective August 4, 2004. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed February 23, 2010; effective March 30, 2010. **Amended:** Published June 28, 2024; effective August 12, 2024. **Amended:** Published _____; effective _____.