

ALABAMA DEPARTMENT OF PUBLIC HEALTH
STATE BOARD OF HEALTH
ADMINISTRATIVE CODE

CHAPTER 420-3-5
SOLID WASTE COLLECTION AND TRANSPORTATION

TABLE OF CONTENTS

420-3-5-.01 Purpose
420-3-5-.02 General
420-3-5-.03 Definitions
420-3-5-.04 Other Approvals Not Implied
420-3-5-.05 Disclosure of Records
420-3-5-.06 Limitations
420-3-5-.07 Certificate of Exception
420-3-5-.08 Social Security Benefits Exemption
420-3-5-.09 Unauthorized/Open Dumps
420-3-5-.10 Solid Waste Storage
420-3-5-.11 Collection and Transportation
420-3-5-.12 Transfer Stations
420-3-5-.13 Processing Facilities
420-3-5-.14 Performance Bonds
420-3-5-.15 Scrap Tire Bonds Variances
420-3-5-.16 Scrap Tire Bond Determination Permit or Certificate
Revocation
420-3-5-.17 Variances Transfer of Permit or Certificate
420-3-5-.18 Permit Or Certificate Revocation Penalty of
Violations
420-3-5-.19 Transfer of Permit or Certificate Appeals
420-3-5-.20 Penalty of Violations Severability
420-3-5-.21 Appeals Repealer
420-3-5-.22 Severability Communication

420-3-5-.23 Repealer Effective Date

420-3-5-.24 Communication

420-3-5-.25 Effective Date

420-3-5-.01 Purpose.

The purpose of these Rules is to regulate the disclosure of certain records, the issuance of Certificates of Exception, the abatement of public health nuisances created by unauthorized dumps, the storage of solid waste, the permitting-of certain collectors, transporters and their equipment, the permitting of certain transfer stations, and the permitting of certain solid waste processing facilities.

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

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420-3-5-.02 General.

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.

(1) The handling and disposal of solid waste shall be accomplished in a manner that will prevent the creation of a nuisance, insanitary condition, or health hazard. and that complies with the requirements of these Rules.

(2) 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.

(3) The responsibility for management of solid waste pursuant to these Rules shall remain with the generator until such time as 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 Officer. 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.

(4) 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.

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

(6) 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.

(7) All facilities regulated under these Rules shall be subject to inspection by the Board or Local Health Officer, without prior notification.

Authors: 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.

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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 Disposal Act," Act No. 771, (Regular Session, 1969), as most recently amended, Code of Ala. 1975, Section 22-27-1 et seq.

(2) Approved -- to be either authorized, certified or permitted by, or meet standards of, a regulatory authority.

(3) Baling -- a volume reduction technique whereby solid waste containing garbage, or scrap tires, is compressed into bales.

(4) 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 1 00 years on the average over a significantly long period.

(5) Bedrock -- the solid rock underlying unconsolidated surface materials such as soil. Boulders and soft sandstone, which are capable of being removed or easily ripped with conventional backhoe equipment, will not be considered as being bedrock.

(6) Board -- the State Board of Health as constituted by Code of Ala. 1975, Section 22-2-1, and includes the Committee of Public Health or State Health Officer when acting as the Board.

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

(8) Certificate of Exception -- a permit issued by the Board to the applicant for the transportation of the applicant's solid waste for disposal at an approved solid waste handling or disposal facility.

(9) 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 Local Health Officer.

(10) Collect -- to gather solid waste containing garbage, or scrap tires, from one or more persons generating such waste.

(11) Collection Facility -- lands, buildings, and other appurtenances used to house or maintain vehicles or equipment used for the collection or transportation of solid waste containing garbage, or scrap tires.

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

(13) Contaminate -- the introduction of any substance or combination of substances into groundwater so as to:

(a) Cause the maximum allowable contaminant levels established in the Alabama Primary Drinking Water Standards adopted by the Department to be exceeded in any groundwater.

(b) Cause an increase in the concentration of that substance in the ground water where the existing concentration of that substance exceeds the maximum contaminant level specified in the Alabama Primary Drinking Water Standards adopted by the Department with the concurrence of the Board.

(c) Cause the groundwater to be unusable for human or animal consumption as determined by the Board.

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

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

(16) Discarded -- any material that has been abandoned, thrown away, disposed of, can be classified as inherently waste-like, or must first be reclaimed or recovered from solid waste before recycling.

(17) 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.

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

(19) Elements -- weather conditions.

(20) 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; are designed to prevent fraud, deceit, or misrepresentation with respect to notice, reporting, monitoring, recording, licensing, approval, or pre-approval requirements; are designed to protect public health or the environment; are designed to prevent or abate the existence of a public or private nuisance which adversely affected public health or the environment; or are designed to prevent other intentional, reckless, or negligent acts or omissions that adversely affect public health and the environment.

(21) 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.

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

(23) Flood Prone Area -- any area which is normally subject to a flood during some portion of the year. This definition refers to areas that are subject to flooding as observed or as indicated by soil characteristics as defined in the standards of the National Soils Handbook, United States Department of Agriculture.

(24) 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.

(25) Full Coverage 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 Local Health Officer or the Department.

(26) 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, and excepting such materials that are serviced by garbage grinders and handled as household sewage.

(27) Generate -- the act or process of producing solid waste containing garbage, or scrap tires. 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.

(28) Generator -- any person who produces solid waste containing garbage, or scrap tires.

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

(30) Handling -- the systematic control of solid waste containing garbage, or scrap tires, including the collection, storage, processing, transportation, treatment, or recovery of materials from such waste.

(31) 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.

(32) Household -- A single family dwelling.

(33) Imported Solid Waste -- solid waste containing garbage generated outside of the State of Alabama and transported into the State for handling or disposal.

(34) 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.

(35) Key Employee -- any person employed by an applicant and empowered to make operational or financial management decisions with respect to solid, hazardous, or infectious waste management operations, but shall not include employees primarily engaged in the physical or mechanical handling or disposal of these wastes.

(36) Local Health Officer -- the County, District or Area Health Officer of a Local Health Department elected in accordance with Section 22-3-2(5)-(6), Code of Ala. 1975, or the designee thereof, as provided by law.

(37) Materials Recovery Facility -- A facility that provides for the extraction from solid waste containing garbage, or scrap

tires, of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials.

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

(39) Open Dump -- any officially recognized place, land or building which serves as a final depository for solid wastes, whether or not burned or buried, which does not meet the minimum requirements for a sanitary landfill, except approved incinerators, compost plants and salvage yards.

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

(41) 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.

(42) Processing -- the act of shredding, grinding, sorting, baling, reclaiming, recycling, or otherwise altering solid waste containing garbage, or scrap tires.

(43) 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.

(44) 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 these terms are defined under Title 38, Article 5A, Section 480-A-480-S, entitled "The Protection of Natural Resources".

(45) Putrescible -- solid waste which is capable of being decomposed by micro-organisms with sufficient rapidity to cause nuisances.

(46) Reclamation -- a controlled method of collection and storing of, or sorting from, solid waste for future use.

(47) Recovered Materials -- those materials which have known recycling potential; can be feasibly recycled; and which have been diverted or removed from the solid waste stream or reclaimed for recycling, whether or not requiring subsequent separation and processing; a substantial portion of which are consistently used in the manufacture of products which may otherwise be produced from raw or virgin materials, but shall not include solvents or materials that are destined for incineration, energy recovery, or any use which constitutes disposal.

(48) Recycling -- the process by which recovered materials are either reused or transformed into raw materials or new products in such a manner that the original products lose their identity.

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

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

(51) Rubbish -- nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves and similar materials. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture and like materials which will not burn at ordinary incinerator temperatures, not less than 1600 degrees F.

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

(53) Scrap Tire -- a tire that has been discarded.

(54) Shared Service -- an activity that qualifies a household or person to be excluded from participating in a full coverage collection program, provided that such household or person complies with the requirements set forth in Rule 420-3-5-.07(3)(b) of these Rules.

(55) Shredding -- a process of reducing the particle size of solid waste containing garbage, or scrap tires.

(56) Significant Interest -- All persons or business concerns, holding more than five percent of the equity in or debt liability of that business, unless the debt liability is held by a charter lending institution.

(57) Sinkhole -- a depression in the topography without a surface outlet for drainage from the low point. Sinkholes are common in areas containing limestone and generally result from the collapse of solution cavities.

(58) Social Security Benefits Exemption -- permission to participate in a 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.

(59) Solid Waste -- all putrescible and nonputrescible discarded materials, except household sewage and livestock and poultry wastes, including, but not limited to, garbage, rubbish, scrap tires, offal, abandoned automobiles and such industrial wastes as are not controlled by other agencies. Recovered materials, uncontaminated concrete, reinforced concrete, soil, brick, rock, and similar materials are not solid waste under this definition and these Rules, with the exception of scrap tires.

(60) State -- the State of Alabama.

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

(62) 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.

(63) Tire -- a continuous solid or pneumatic rubberlike covering which is designed for encircling the wheel of a vehicle.

(64) Transfer Station -- any combination of structures, land, machinery or devices at a place or facility at which solid waste containing garbage, or scrap tires, is taken from transportation units and placed in other transportation units for movement to a solid waste handling 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 requirements of the Code of Ala. 1975, Section 22-27-3(a)(1).

(65) Transportation -- the movement of solid waste containing garbage, or scrap tires, by rail, air, water, or overland by vehicle from the point of generation to a handling or disposal facility or from one handling or disposal facility to another. This definition does not apply to Certificates of Exception.

(66) Transportation Unit -- The smallest containment housing that collectively makes up the whole of a shipment, into which solid waste containing garbage, or scrap tires, is placed for transporting by rail, air, water, or overland by vehicle. This would include, but not be limited to, a single trailer load of compacted, loose-filled, or baled solid waste containing garbage, or scrap tires; a container into which solid waste containing garbage, or scrap tires, is placed in compacted, loose-filled or baled form; a railroad car into which solid waste containing garbage, or scrap tires, is placed in compacted, loose-filled or baled form; or a barge filled with solid waste containing garbage, or scrap tires, that is in compacted, loose-filled, or baled form.

(67) Transporter -- a person, public or private, engaged in the off-site transportation of solid waste containing garbage, or scrap tires, by air, rail, overland by vehicle, or water, but does not include a person transporting his own such waste pursuant to a Certificate of Exception issued by the appropriate regulatory authority.

(68) Unauthorized Dump -- Any collection of solid waste either dumped or caused to be dumped or placed on any property either - public or private, whether or not regularly used, and not under the control and supervision of any person or agency. An abandoned automobile, large appliance or similar large item of solid waste shall be considered as forming an unauthorized dump within the meaning of this article, but not the careless littering of smaller individual items as tires, bottles, cans and the like. An unauthorized dump shall also mean any solid waste disposal site which does not meet the regulatory provisions of the Act.

(69) Vector -- an organism that is capable of carrying or transmitting a human pathogen, or human disease-causing agent, from one host to another.

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

(71) Waiver -- the surrender of a claim for payment.

(72) Waters -- all waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the State, natural or artificial.

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

(74) Wetland -- those areas that are defined in 40 CFR 232.2(r), entitled "Protection of Environment."

Authors: 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.

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

Approval of any regulated solid waste operation or facility by the local health department 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 jurisdictions. Similarly, approval of development plans by other agencies does not negate the required approval by the Health Department for regulated solid waste operations or facilities in accordance with this Chapter.

Authors: 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; 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 Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.05 Disclosure of Records.

The Board may deny, suspend or revoke a permit for a transfer station regulated under these Rules if they find that the owner, or the operator, or any person having a significant interest in the applicant or the facility, has 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. It is the permittees continuing duty to disclose information as required by these Rules, after the issuance of any transfer station permit.

(1) All persons who apply for a transfer station permit under these Rules shall submit, at the time of initial application or permit renewal, a disclosure statement to: Alabama Department of Public Health, General Counsel, 434 Monroe Street, Montgomery, Alabama 36130-3017. The statement shall contain the following information:

(a) 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 five percent of the equity in or debt liability of that business, unless the debt liability is held by a charter lending institution.

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

(c) 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) or (b) above. All convictions and civil or administrative adjudications referenced herein, excluding those involving public corruption or violations of environmental laws, which occurred more than seven (7) years prior to the submission of a transfer station do not require disclosure,

(d) A list and explanation of any ongoing court proceeding or any ongoing administrative enforcement action not already provided under subparagraph (1)(c) of this Rule in which any person named in subparagraphs (a) or (b) 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.

(e) A list of any persons outside of Alabama who have regulatory responsibilities over the applicant in connection with the handling or disposal of solid, hazardous, or infectious wastes.

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

(2) Records disclosed under this Rule shall be reviewed by the Board, in accordance with criteria approved by the Board.

(3) The Board may deny, suspend or revoke a permit because of convictions or adjudications requiring disclosure under this Rule, based on their consideration of the nature and seriousness of the offense in question and any evidence of rehabilitation. In making this determination, the Board shall consider the following facts:

(a) 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.

(b) The nature and seriousness of the offense.

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

(d) The age of the individual when the offense was committed.

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

(f) The nature of the person who committed the offense.

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

(h) Any evidence of rehabilitation.

(4) 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.

(5) 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.

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

Authors: 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.

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420-3-5-.06 Limitations.

Nothing in these Rules shall be construed to limit the authority of municipal and county governments, or solid waste authorities, from adopting more stringent solid waste management requirements to be used in conjunction with these Rules.

Authors: 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; 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 Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.07 Certificate Of Exception.

These Rules specify the method of obtaining a Certificate of Exception for any householder who meets the minimum requirements and who chooses to transport his own household solid waste to an approved handling or disposal facility.

(1) General. A household shall make application to and receive from the Local Health Officer a Certificate of Exception in order to transport its own household solid waste to an approved facility, as is provided by the Code of Ala. 1975, Section 22-27-3, et seq.

(a) It shall be the responsibility of the certificate holder to abate any nuisance menacing public health resulting from the certificate holder's storage or transportation of solid waste.

(b) The local health department shall not issue Certificates of Exception without prior written approval from the local governing body.

(c) The Local Health Officer is authorized to deny approval of 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.

(d) All certificates shall be valid up to one year from the date of issue and are renewable annually.

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

(2) Shared Service. A person desiring to be excluded from participating in a full coverage service program because of shared service shall identify himself to the Local Health Officer and verify compliance with requirements enumerated in subparagraph (3)(b) of this Rule.

(a) Exclusion from a full coverage 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, the sharing activity is no longer valid.

(b) Persons who request to be excluded from participating in a full coverage collection program due to shared service, shall provide documentation to the Local Health Officer that their activity satisfies the following criteria which define shared service, which shall be used in determining if an activity is shared service.

1. Said person did mutually agree with other person(s) to combine their solid waste for collection, and began such activity at least six months prior to the implementation of the full coverage collection program.

2. All persons under such agreement were located within the same governing body's collection jurisdiction.

3. All persons under such agreement were sharing in the cost of the solid waste collection, pursuant to the agreement between them.

4. Collection of the solid waste was accomplished pursuant to an agreement with an approved collector, in a manner approved by the Local Health Officer.

5. The applicant must provide documentation that the collector was aware, at least six months prior to implementation of the full coverage collection program that the service was being shared, and said collector did agree to collect the combined solid waste for the single price charged.

6. The solid waste being combined was generated on properties which are located adjacent to each other, and do not require the transportation of the solid waste either offsite or to other properties other than those located immediately adjacent to the property on which the waste was generated.

(3) Transportation Exception. No household shall transport its own solid waste for handling or disposal until such household has made application for and received a Certificate of Exception from the Local Health Officer. The Local Health Officer may issue the exception for households, but may not issue the exception for businesses or industries as are enumerated in the Code of Ala. 1975, Section 22-27-3.

(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 containing garbage 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 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 two (2) years from the date of issue and shall be made available to the Local Health Officer upon request.

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

Authors: 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.

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420-3-5-.08 Social Security Benefits Exemption.

These rules specify the method of applying for a Social Security Benefits Exemption for households whose sole source of income is social security benefits.

(1) Social Security Benefits Exemption. Households seeking this exemption from the county commission or municipal governing body must submit proof of income to the Local Health Officer. The applicants shall verify income through a notarized and sworn

statement, and attach the previous year's federal tax return form 1040 or equivalent. The Local Health Officer or his designee shall forward the statement and attachments to the county solid waste officer or municipal governing body upon receipt. The exemption shall apply only so long as the household's sole source of income is social security and shall be requested each year in which the exemption is desired. Such exemptions may only be granted in those counties and municipalities which have adopted a mandatory public participation program in accordance with the Code of Ala. 1975, Section 22-27-3(a)(2) and (3).

(a) Households granted the exemption from the county commission 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.

(b) Application for Social Security Benefits Exemption shall be made on forms provided by the Board.

Author: Jim L. Mysinger, Esq.

Statutory Authority: Code of Ala. 1975, 22-2-2(6), 22-10-1 et seq., 22-27-1 et seq., Act 97-636.

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 Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.09 Unauthorized/Open Dumps.

An unauthorized/open dump, or any activity causing the creation or maintenance of such dumps, shall constitute a nuisance menacing public health and is subject to abatement by the Department pursuant to the Code of Ala. 1975, Section 22-22-5, concerning the abatement of unauthorized/open dumps. The Local Health Officer may pursue abatement action pursuant the Code of Ala. 1975, Section 22-10-1 et seq. for vectors or other public

health nuisances associated with the unauthorized/open dump, pursuant to this Rule.

(1) Persons who cause the creation of an unauthorized or open dump, or who own the property upon which it is located, or are responsible for the disposal of the solid waste therein, shall be held responsible for any abatement action deemed necessary by the Local Health Officer,

(2) The Local Health Officer, upon identification of nuisances associated with an unauthorized or open dump, may order abatement of such nuisances in conjunction with notifying the Department of impending action.

(3) In addition to remedies required to abate nuisances associated with an unauthorized or open dump, the Local Health Officer may require either removal of all or part of the solid waste to an approved handling or disposal facility in a time and manner prescribed by the Local Health Officer, or burial of the solid waste according to a plan approved by the Department.

Authors: 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; 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 Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.10 Solid Waste Storage.

This Rule shall apply to any person who generates solid waste.

(1) Each generator of solid waste is responsible for providing adequate storage for his solid waste in a manner

consistent with these Rules and acceptable to the Local Health Officer.

(2) All solid waste shall be stored in a manner that does not constitute a 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 and the creation of a public health nuisance, but in no case shall any of such waste be stored for more than one week prior to being collected for transportation to a handling or disposal facility.

(5) Garbage or rubbish containing garbage 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 Local Health Officer.

(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 spillage or leakages of solid, semi-solid, or liquid waste.

(c) The control of vegetation on and around the site.

(d) Vermin and vector control on 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 fenced in a manner that will prevent windblown litter and nuisances menacing public health. The area to be enclosed should be large enough to allow servicing of the container. Openings or gates shall be designed, constructed and maintained in a manner which is acceptable to the Local Health Officer.

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; 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 Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.11 Collection And Transportation.

Any person, whether public or private, engaging in the collection or transportation of solid waste, including those persons transporting more than 10 tires at one time or more than 120 tires in a year, shall be subject to the requirements of this Rule. In addition, persons who collect or transport solid waste containing garbage which may include small numbers of tires that are incidental to the load, are not required to obtain an additional permit to collect or transport such tires, even though such person may collect or transport more than 120 tires per year. However, solid waste collection or transportation operations which do include the collection or transportation of tires which comprise a large portion of the load shall be considered to be a separate collection or transportation operation, for the purposes of these Rules, and the person responsible for the operation shall be required to obtain a Solid Waste Collector or Transporter Permit, as appropriate, for the tire collection or transportation operation.

(1) Permitting. No person shall collect and transport solid waste containing garbage, or scrap tires, until he has applied for and received a Solid Waste Collector permit from the Local Health Officer. Persons who transport solid waste containing garbage, or scrap tires, within the State, but do not collect solid waste containing garbage, or scrap tires, generated therein, shall apply for and receive a Solid Waste Transporter Permit in lieu of a Solid Waste Collector Permit from the Local Health Office before beginning such activity.

(a) The issuance of a Solid Waste Collector or Transporter Permit authorizes the permit holder to collect or transport solid waste containing garbage, or scrap tires, within a set boundary and does not authorize the collector or transporter to dispose of such waste outside of designated jurisdictions or permitted boundaries.

(b) Solid Waste Collector or Transporter Permit shall be obtained by the collector or transporter from the Local Health Officer in each county where said collector or transporter operates a collection facility.

1. To operate in other counties in addition to (b) above, the collector or transporter shall obtain approval from, and register with, the affected county health

department(s) by submitting a written request accompanied by a copy of the permit obtained in (b) above and the information required in subparagraph (1)(c) of this Rule.

2. Upon renewal of the permit by the permitting county health department, the collector or transporter shall furnish copies of the renewed permit within 10 (ten) working days to the health department of each county in which said collector or transporter is registered, in order to continue operation in that county.

3. The Local Health Officer is not obligated to allow the registration of a solid waste collector or transporter with a local health department even though such collector or transporter may have a valid permit from, or is registered with, other county health departments.

4. 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.

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

1. Collection or transportation routes and schedules for the affected county.

2. A method of flushing, cleaning, and maintaining vehicles and equipment.

3. Documentation that the method for disposal of wastewater, resulting from flushing and cleaning of vehicles and equipment, has been permitted or approved by the Department, or documentation that such method does not require approval from the Department.

4. A plan for the prompt clean-up of spillages.

5. 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 Local Health Officer.

6. Scrap tire transporters shall submit verification that facilities permitted for scrap tire processing or disposal agree to accept scrap tires from the applicant.

7. Evidence of the posting of a performance bond or other assurance as may be satisfactory to the local governing body.

8. A site plan of the collection facility to be used to house, maintain or clean vehicles.

(d) Persons transporting only scrap tires, which have not been co-mingled with garbage, are exempt from subparagraphs (1)(c) 2 and (1)(c)3 of this Rule.

(2) Operations. The collection of solid waste containing garbage or scrap tires shall not cause a nuisance menacing public health, and shall be accomplished pursuant to the following requirements:

(a) Solid waste containing garbage, or scrap tires, shall be collected pursuant to the frequency specified in contracts or agreements entered into.

(b) All spillages of solid, semi-solid, or liquid waste resulting from, or which occur during, the collection operation shall be promptly remediated by the collector to the satisfaction of the Local Health Officer.

(c) All solid waste containing garbage, or scrap tires, shall be collected and transported in vehicles approved by the Local Health Officer, and deposited at an approved facility.

(d) Solid waste containing garbage, or scrap tires, 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 situation, the waste shall be relocated and removed promptly, and the site cleaned of all residue resulting from the unloading, promptly after the emergency no longer exists.

(e) Solid waste containing garbage 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 which 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 transporters shall keep manifests detailing the place, date and times of collection of solid waste containing garbage from the generator or other places, excluding individual households, for two weeks after the dates such collection or transportation occurs. Summaries of the above information, the name of the person responsible for the wastes 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 one year following the activity.

(h) Collection facilities shall be operated, maintained, and closed in a sanitary manner, to include control of vegetation, windblown litter, and the harborage of vermin and vectors.

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

(j) 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.

(k) Scrap tire transporters shall keep manifests detailing the chain-of-custody for each shipment of tires. Such manifests shall be available upon request by the Local Health Officer or the Board and shall, at a minimum, contain the following information:

1. The location(s) from which the tires were collected (retail outlet, landfill, etc.).
2. The date on which the scrap tires were collected by the transporter.
3. The identifying numbers or letters of the alphabet assigned to each shipment, and the number and type of individual units shipped.
4. The name, telephone number, and address of the person(s) responsible for the transport and disposal or deposit of the scrap tires.
5. The name and location of the facility for disposal or deposit of the scrap tires.
6. The date on which the scrap tires were deposited or disposed of.
7. The date, time and a certification that tires are treated in accordance with paragraph(2)(m)of this Rule.

(l)Solid waste containing garbage, or scrap tires, 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.

(m) Persons who import scrap tires into the State shall ensure that such tires are treated for mosquito control before entering the State, in accordance with a plan approved by the Local Health Officer. Treatment shall be performed by a person who is either certified or licensed by the appropriate regulatory authority.

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

(a) All vehicles used for the collection or transportation of solid waste containing garbage shall be approved by the Local Health Officer before such use and shall be inspected at least annually, including at the time permits are issued or renewed. Vehicles which fail to meet minimum standards of the Health Department during inspection shall not be approved for collection or transportation of solid waste containing garbage.

(b) A vehicle shall not be used for collection or transportation of solid waste containing garbage unless a valid and current Health Department decal is displayed in a place to be determined by the Board. Such decals shall be issued only for those vehicles that pass Health Department inspections based on standards as set forth in subparagraph (3)(d) of this Rule.

(c) A vehicle shall not be used for transportation of scrap tires unless a valid and current Health Department decal is displayed in a place to be determined by the Board.

(d) Vehicles used for the collection or transportation of solid waste containing garbage 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. All drain holes and valves shall be properly closed, plugged, or sealed.

3. The vehicle shall be equipped with seals, gaskets, or other devices where necessary to prevent the escape of liquids. Such seals, gaskets, and other such devices shall be maintained and replaced as needed.

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

7. The vehicle shall be serviced, repaired, and cleaned on a regular basis so as to maintain sanitary conditions, to preserve the integrity of the 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 wind blown 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 containing garbage.

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

(4) Imported Solid Waste. Any person, whether public or private, who imports solid waste containing garbage, or scrap tires, shall adhere to the requirements of this Rule.

(a) Persons who import solid waste containing garbage, or scrap tires, into the State in addition to collecting and transporting solid waste containing garbage, or scrap tires, generated within the State, shall apply for and receive a Solid Waste Collector Permit from the Local Health Officer before beginning such activity.

(b) Persons who import solid waste containing garbage, or scrap tires, into the State, but do not collect and transport solid waste containing garbage, or scrap tires, generated therein, shall apply for and receive a Solid Waste Transporter Permit in lieu of a Solid Waste Collector Permit from the Local Health Officer 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 containing garbage, or scrap tires, was generated (state, county, municipality, etc.)
2. The date on which the solid waste containing garbage, or scrap tires, 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 containing garbage, or scrap tires, 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 containing garbage, or scrap tires.

6. The name and location of the disposal site.

(d) The importer shall provide the Local Health Officer with verification that imported solid waste containing garbage, or scrap tires, 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 containing garbage 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 containing garbage 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 such other recognized financial instrument as shall be acceptable to the Board.

Authors: 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; 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 Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.12 Transfer Stations.

Transfer stations shall meet all the requirements of these Rules and shall be subject to inspection by the Board or Local Health Officer, 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 Local Health Officer.

(1) Permitting. No person shall construct, operate, or materially alter or modify, excluding normal maintenance, a transfer station facility or its operation until he has applied for and received a permit, renewable annually on the first day of October, from the Local Health Officer.

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

1. A written description of proposed methods for:

(i) Control of surface water run-off.

(ii) Control of vegetation on and around the facility.

(iii) Control of vermin and vectors.

(iv) Control of windblown litter.

2. A site plan of the structures and utilities on a scale of sufficient detail to reveal the transfer building (and foundation), compactor unit, transfer trailer, water and sewer lines, onsite sewage disposal systems, property boundaries and fences, storage containers, and other features up to 500 feet beyond the facility boundaries. Other types of solid waste functions to be incorporated at the facility shall be indicated.

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

4. Source of water supply.

5. 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 Local Health Officer, as appropriate; or documents verifying that such approval is not required.

6. Verification that other solid waste handling or disposal facilities have agreed to accept solid wastes that are to be managed through the transfer station and subsequently deposited at such handling or disposal facilities,

7. Operation manual, prepared in accordance with subparagraph (4) of this Rule.

8. A fire prevention plan as approved by the local or state fire marshal.

9. A legal description of the property to be used for the facility and a boundary plat, both prepared by a registered land surveyor.

10. A copy of the property deed, including any easements or "Covenants Running With The Land."

(b) The applicant shall employ 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 Rule 420-3-5-.05 of this Chapter.

(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:

1. 100 feet between the area of transfer activities and all public roads and other property boundaries.
2. 500 feet between the area of transfer activities or storage of garbage and the nearest residence, school or recreational park 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.

(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 or 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) A temporary exemption may be granted by the Board to a transfer station, which on May 27, 1994, was in operation and consisted of either:

1. An impervious tipping floor and a roof; or

2. An impervious tipping floor and an approved method for drainage and disposal of wastewater, leachate or surface water.

(f) Exemptions granted in subparagraph (e) above shall be subject to the following:

1. Exemptions are granted only for compliance with construction improvement requirements. The duration of the exemption shall not exceed 12 months from November 28, 1994.

2. Exemption requests must be filed by November 28, 1994 and must be accompanied by a compliance plan which is acceptable to the Board.

3. Exemptions or portions thereof may be denied when the granting of such would compromise the public health or environment.

4. Facilities which cease operation by November 28, 1994 shall not be required to file a closure plan.

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

(h) 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 containing garbage, or scrap tires.

(i) Transfer stations shall not be sited in areas which are 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 which connect 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 which are connected to a sanitary sewer system or equivalent. Roofs shall be designed, constructed and maintained in a manner that prevents exposure of the waste thereunder to the elements.

(h) 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 Local Health Officer.

(4) Operations. 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:

(a) A transfer station shall not accept or receive solid waste containing garbage, or scrap tires, from persons other than permitted solid waste collectors or transporters unless said persons are authorized by a Certificate of Exception.

(b) 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.

(c) The operator of a transfer station shall immediately notify the Local Health officer 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 the incident:

1. Date and time prohibited waste was discovered.
2. Date and times the Local Health Officer and other authorities were notified.
3. Quantity of waste.
4. Where the waste was generated.
5. Name, address, phone number, and permit number of person who deposited such waste, if known.
6. Type of waste discovered.

7. Other information concerning the incident that is known by the operator.

(d) The storage of solid waste at the facility and the storage containers shall adhere to requirements of Rule 420-3-5-.10.

(e) 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 nuisance menacing public health, which, at a minimum, shall include, but not be limited to, the following:

1. The facility and equipment used for handling or storing solid waste containing garbage 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 Local Health Officer 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.

(f) 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 a manner which will allow the facility to be flushed and cleaned in accordance with subparagraph (4)(e) of this Rule.

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

(h) Equipment at the transfer station shall at all times 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 Local Health Officer 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 Local Health Officer pertaining to the problem.

(i) An attendant shall be on duty at the facility during all operating hours. Said attendant shall be trained to identify prohibited waste. The training shall be accomplished by the employer or an institution offering such training, and in a manner which is acceptable to the Board.

(j) An operation manual shall be prepared and maintained describing 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.

(k) 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.

(1) In order to prevent the transmission of human pathogens:

1. Eating, drinking, smoking, and the use of smokeless tobacco shall be prohibited at those work stations where employees have physical contact with solid waste containing garbage. Warning signs shall be posted at prominent locations at such stations stating that eating, drinking, smoking, and the use of smokeless tobacco are prohibited in that area. Transfer station permittees shall post signs in prominent locations, reminding employees to

wash their hands before eating, drinking, smoking, or using smokeless tobacco.

2. The permittee shall, at the start of each workshift, assure that each employee who will have physical contact with solid waste containing garbage at the transfer station is provided with and uses protective clothing or gear which will provide a barrier between the employee and solid waste containing garbage and which is acceptable to the Local Health Officer. 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 from 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 in operating transfer stations by training, education, or experience, including, but not limited to the following items:

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

2. Knowledge of the transfer station management plan.

3. A certification or license authorizing said person to identify hazardous waste.

4. Basic knowledge of the usage of facility equipment.

5. Completion of courses or programs as may be developed by organizations or industries that qualify an individual to manage a transfer station operation, as is determined by the Board.

(r) The transfer station permittee shall notify the Local Health Officer at least 90 days in advance of the proposed date of closure of the facility. A closure plan shall be submitted by the operator to the Local Health Officer 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 Local Health Officer. Closure of the transfer station shall be accomplished in accordance with the following requirements:

1. Within 24 hours of the termination of operations, the transfer station permittee shall remove, or cause to be removed, all solid waste containing garbage, 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 nuisance menacing public health or the environment and in a manner that is acceptable to the Local Health Officer.

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

3. 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.

(s) 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.

(t) The transfer station permittee shall retain records of all activities occurring at the facility for at least two (2) years. Additionally, such records shall be retained longer than two (2) years if such records are under dispute. Such records shall be made available upon request to the Local Health Officer, 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 as used;
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. 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. 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. Facility 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 Local Health Officer may require.

(u) Open burning of any type is prohibited at the transfer station.

(v) Solid waste containing garbage 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 Local Health Officer 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.

(w) Scavenging at a transfer station is prohibited.

Authors: 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; 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 Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.13 Processing Facilities.

The requirements of this Rule shall apply to any facility that shreds, grinds, bales, reclaims, recycles, or otherwise processes scrap tires or solid waste containing garbage prior to ultimate disposal or reuse. All processing facilities shall be designed, located, constructed, operated, maintained, and closed in a sanitary manner that will not provide harborage for vermin or vectors, or create a nuisance menacing public health. Such facilities are subject to inspection by the Local Health Officer or the Board, at least semi-annually, including inspections performed at the time a permit is renewed or issued. More frequent inspections may be performed, if deemed necessary by the Local Health Officer.

(1) Permitting. Unless excepted under this Rule, a person shall neither construct nor operate a processing facility, nor materially alter or modify, excluding normal maintenance, a

processing facility or its operation without first obtaining a permit, renewable annually on the first day of October, from the Local Health Officer.

(a) Persons who process their own solid waste containing garbage, or scrap tires, and not the solid waste containing garbage, or scrap tires, generated by other persons, are not required to obtain a permit under these Rules. However, such persons shall conduct the processing activity in a sanitary manner so as to prevent the creation of a nuisance menacing public health, and shall adhere to the sanitary requirements of these Rules, as applicable.

(b) The applicant shall employ the services of a registered engineer to prepare the application. Such application shall be made on forms provided by the Board and have the following information attached:

1. A statement briefly describing the project for which a permit is requested.
2. A U.S. Geological Survey topographical map of the area, showing the facility 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.
3. Drawings of buildings and other structures showing type of construction, layout, and dimensions for unloading, storage, and processing areas.
4. A site plan of the facility on a scale of sufficient detail to reveal any structures, equipment, water and sewer lines, onsite sewage disposal systems, property boundaries, fences, out-of-doors storage containers, and roads.
5. A descriptive statement of processes to be used.

6. Flooding frequency at the proposed location for the processing facility as described by the Soil Conservation Service.

7. Source of water supply.

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

9. A fire prevention plan as approved by the local or state fire marshal.

10. A description of:

(i) Major items of equipment including manufacturer, type, model, capacity, and number of units.

(ii) Types and anticipated quantities of solid waste to be accepted.

11. A written description of proposed methods for:

(i) Control of surface water run-off.

(ii) Control of vegetation on and around the facility.

(iii) Control of vermin and vectors.

(iv) Prevention of explosions.

(v) Control of odors.

(vi) Control of windblown lifter.

12. An operation manual which identifies the operation in detail, including:

(i) Periodic cleaning and maintenance.

(ii) The manner in which waste prohibited by these Rules which may be delivered to or discovered at the processing facility will be identified, segregated, and handled.

(iii) Emergency procedures.

(iv) Employee safety and sanitary practices.

13. A legal description of the property to be used for the facility and a boundary plat, both prepared by a registered land surveyor.

14. A copy of the property deed, including any easements or "Covenant(s) Running With The Land."

15. Evidence of the posting of a performance bond or other assurance as may be satisfactory to the local governing body.

(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.

(2) Location. Processing facilities shall meet the same location requirements as for transfer stations, specified under Rule 420-3- 5-.12(2).

(3) Design. Processing facilities shall meet the same design requirements as for transfer stations, specified under Rule 420-3-5-.12(3).

(4) Operations. The operation, management, and closure of a processing facility shall meet the following requirements:

(a) A processing facility shall not receive or accept, nor shall any person deposit, regulated hazardous waste, infectious waste, or explosive material or debris at such facility.

(b) The operator of a processing facility shall immediately notify the Local Health Officer and other appropriate regulatory authorities when any waste, prohibited from being deposited at a processing facility by these Rules, is delivered to or discovered at the facility. The operator shall record the following information concerning the incident:

1. Date and time prohibited waste was discovered.
2. Date and times the Local Health Officer and other authorities were notified.
3. Quantity of waste.
4. Where the waste was generated.
5. Name, address, phone number, and permit number of person who deposited such waste, if known.
6. Type of waste discovered.
7. Other information concerning the incident that is known by the operator.

(c) The facility shall not accumulate solid waste in a quantity that cannot be processed, stored, or managed in an effective manner to preclude the creation of fly breeding or mosquito breeding, the harborage of vermin or vectors, or the

contamination of ground or surface waters. If such accumulation occurs, the facility shall not accept or receive any additional waste until such adverse conditions are remediated.

(d) If a significant work stoppage should occur at a processing facility due to a mechanical breakdown or other cause, and it is anticipated to last long enough to create fly breeding or mosquito breeding or harborage of vermin or vectors or other nuisance, the facility operator shall notify the Local Health Officer of the stoppage within 24 hours.

(e) Macerators, hammer mills, grinders, compactors, and other equipment shall be cleaned regularly, and shall be equipped with drains which connect to an approved sanitary sewer system or equivalent.

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

(g) Weeds, grass, and other vegetation shall be trimmed regularly.

(h) Vermin and vectors shall be controlled in a manner acceptable to the Local Health Officer, and through a person licensed or certified by the Alabama Department of Agriculture and Industries to perform pest control services.

(i) Dust, noise, and odor shall be minimized to the extent possible during hours of operation.

(j) Plumbing shall be properly maintained, and floors shall be well drained and free from standing water.

(k) The facility and equipment shall be maintained and cleaned regularly.

(l) 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 a manner which will allow

the facility to be flushed and cleaned in accordance with subparagraph (k) of this Rule.

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

(n) An attendant shall be on duty at the facility during all operating hours. Said attendant shall be trained to identify prohibited waste. The training shall be accomplished by his employer or an institution offering such training, and in a manner which is acceptable to the Board.

(o) Appropriate onsite fire control equipment shall be provided, and additional fire-fighting equipment shall be made available in emergencies through prior arrangements with the local fire department.

(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) In order to prevent the transmission of human pathogens:

1. Eating, drinking, smoking, and the use of smokeless tobacco shall be prohibited at those work stations where employees have physical contact with solid waste containing garbage. Warning signs shall be posted at prominent locations at such work stations stating that eating, drinking, smoking, and use of smokeless tobacco are prohibited in that area. The processing facility permittee shall post signs in prominent locations, reminding employees to wash their hands before eating, drinking, smoking or using smokeless tobacco.

2. The permittee shall, at the start of each workshift, assure that each employee who will have physical contact with solid waste containing garbage at the processing facility is provided with, and uses, protective clothing or gear which will provide a barrier between the employee and solid waste containing garbage and which is acceptable to the Local Health Officer. Such clothing or gear shall

be removed by the employee prior to leaving the facility at any time.

(r) Operation and management of the facility shall be under the direct supervision and control of an individual qualified in operating processing facilities by training, education, or experience, including, but not limited to, the following items:

1. Knowledge of the emergency procedures of the local governing body and the local emergency management agency.
2. Knowledge of the facility management plan.
3. A certification or license authorizing said person to identify hazardous waste.
4. Basic knowledge of the usage of facility equipment.
5. Completion of courses or programs as may be developed by organizations or industries that qualify an individual to manage a processing facility, as is determined by the Board.

(s) The permittee shall assure the instruction of facility personnel, at least semi-annually, on the operation manual and on matters related to worker safety, health, and hygiene.

(t) An annual written report shall be submitted to the Local Health Officer concerning the status of the processing facility for each year the facility is in use. This report shall be submitted as specified in the permit, and shall include the:

1. Quantity of solid waste, in tons, received per month during each of the preceding 12 months.
2. Quantities, types, and destinations of processed material removed from the processing facility.

3. Other reporting requirements considered necessary by the Board.

(u) The processing facility permittee shall retain records of activities occurring at the facility for at least two (2) years. Additionally, such records shall be retained longer than two (2) years if such records are under dispute. Such records shall be made available upon request to the Local Health Officer, and shall, at a minimum, include the following information:

1. Facility sanitation and management practices, including vermin and vector control practices, cleaning of machinery, equipment, site maintenance, and other items which substantiate fulfillment of the operations plan.

2. Employee instruction on worker health, safety, and hygiene.

3. County, city or other point of generation, destination, and date of each shipment of solid waste deposited at, or removed from, the facility, and the name and permit number, where applicable, of the solid waste collector or other person who deposited or removed such waste.

4. Other information that the Local Health Officer may require.

(v) The storage of solid waste at the facility, and the storage containers, shall adhere to requirements of Rule 420-3-5-.10.

(w) The processing facility permittee shall notify the Local Health Officer at least 90 days in advance of the proposed date of closure of the facility. A closure plan shall be submitted by the operator to the Local Health Officer 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 processing facility may not proceed until the closure plan, as submitted by the operator, has been approved by the Local Health Officer. Closure of the processing facility shall be accomplished in accordance with the following requirements:

1. Within 24 hours of the termination of operations, the processing facility permittee shall remove, or cause to be removed, all solid waste containing garbage, debris, and residue and dispose of same at an approved disposal or handling facility. The permittee shall ensure that the site in its entirety is left in such a manner so as to not cause a nuisance menacing public health or the environment, and in a manner that is acceptable to the Local Health Officer.

2. After closure, access to the facility shall be restricted and signs shall be posted stating the facility is closed, giving location of the nearest approved solid waste handling or disposal facility. Solid waste shall not be deposited at a processing facility after closure.

3. The applicant shall employ the services of a registered engineer to certify that the processing facility has been closed in accordance with the approved closure plan and the requirements of these Rules.

(x) Open burning of any type is prohibited at a processing facility.

(y) Solid waste containing garbage shall not remain at a processing facility longer than 24 hours after it is received or deposited. A permit holder may obtain approval from the Local Health Officer to retain garbage longer than 24 hours if the facility is equipped to contain garbage in a manner that will not create odor or provide harborage for vermin or vectors.

(z) Scavenging at a processing facility is prohibited.

(aa) Sanitary facilities and hand wash basins shall be maintained in good operational condition.

(5) Scrap Tires. Scrap tires shall be stored under protective cover or shelter, as approved by the Local Health Officer, so as to prevent exposure of the tires to the elements, unless they are being stored as material to be processed at an operational

tire processing facility. Operational tire processing facility shall mean any facility at which scrap tires are chipped, shredded, split or otherwise altered in a manner that prevents the tire from being reused on a vehicle. The facility must be either capable of beginning operation immediately or is currently operating.

(a) Any site where more than 100 scrap tires are stored, deposited or placed in violation of the requirements of this Rule for more than 10 days shall be considered a nuisance menacing public health, and any person who owns, operates, or contributes to such site shall be in violation of these Rules and Section 22-2-14, 22-1 0-1 et seq., of the Code of Alabama, 1975. Tire retail facilities may store up to 500 scrap tires exposed to the elements, provided such storage does not create a nuisance menacing public health.

(b) The owner of a scrap tire processing or storage facility in existence at the time these Rules become effective, and which does not comply with the storage requirements of this Rule, shall obtain a temporary exemption from such requirements in order to continue the operation of the facility. The application for an exemption shall be filed through the Local Health Officer to the Board within thirty (30) days after these Rules become effective, and shall contain the following information:

1. A plan, approved by the Board, by which the stored tires will be brought into compliance with section (5) of this rule.
2. A vector management plan approved by the Local Health Officer.

(c) Operational tire retreading or recapping facilities shall not be considered tire processing facilities for the purposes of these rules, and may store scrap ties exposed to the elements, provided that control of vermin and vectors is effected to the satisfaction of the Local Health Officer, and through a person licensed or certified by the Department of Agriculture and Industries as a pest control operator.

(d) In addition to information required under subparagraph (1)(b) of this Rule, the following information shall also accompany the application for a scrap tire processing facility permit:

1. A site plan of the tire storage area, showing the length, width, and height of the tire rows and the dimensions of the access lanes separating the tire rows.
2. Documentation verifying the dimensions of the rows and access lanes have been approved by the local or state fire marshall.
3. Representation of the tire storage area on a U.S. Geological Survey topographic map, and on the site plan.
4. Estimated monthly volume of scrap tires to be received and processed at the facility.
5. A written description explaining the facility's plan for use of the scrap tires or processed tire material.

(e) Scrap tire processing facilities which do not process scrap tires previously mixed with garbage or solid waste containing garbage are exempt from subparagraph (4)(r) of this Rule.

(f) The open burning of tires, vegetation or other materials at the facility is prohibited. The facility operator shall erect and maintain signs stating that such burning is prohibited.

(g) To facilitate the control of vermin, vectors, and fire, scrap tires shall be stored in a manner acceptable to the Local Health Officer, and which adheres to the following requirements:

1. All tires shall be emptied of water before being placed in storage.

2. Tires shall be stored in an orderly pattern in rows which shall be of a size and dimension as to be self-supporting, to facilitate the access of pest control substances to all tires, and to enable fire fighting equipment to reach all tires in the rows. Rows shall be of a size and dimension which are acceptable to the Local Health Officer, and approved by the local or state fire marshall.

3. Tire rows shall be separated by access lanes, along the sides and at the ends, to accommodate fire fighting and pest control vehicles. Access lanes shall be of a width which is acceptable to the Local Health Officer, and approved by the local or state fire marshall.

4. Tires shall not be stored on or over a depression, or in an area that is floodprone or subject to ponding of water.

5. Tire processing facilities shall not store a number of tires exposed to the elements that is greater than 1.34 times the number of tires the facility can process in a 90 day period.

(i) If such accumulation occurs, the facility shall not accept or receive any additional tires until the number has been reduced to the amount specified in the permit.

(ii) The applicant shall state on the permit application, the facility's 90 day tire processing capacity, which shall include an allowance for inoperable periods for cleaning, maintenance, and the like.

(iii) The processing capacity used to determine storage limitations for the processing facility shall be indicative of actual capacity at the time the application is approved, not anticipated capacity.

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 October 20, 1994. **Emergency Repeal and New Rule:** Filed November 20, 1997. **Repealed and Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.14 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 menacing public health or the environment, and shall abate any such condition or nuisance as a matter of priority to the satisfaction of the Local Health Officer or the Board.

Authors: 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 October 20, 1994. **Emergency Repeal and New Rule:** Filed November 20, 1997. **Repealed and Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.15 Variances.

In order to avoid undue hardships and promote the effective and reasonable application and enforcement of these Rules, the Board may grant variances from requirements of these Rules in accordance with such procedures and conditions as it may prescribe. Variances shall not granted at the local level. A

variance shall be granted upon finding that strict application of the Rules in question would cause the applicant undue hardship which results from conditions peculiar to the site or situation under consideration, which conditions could not reasonably have been anticipated in the writing of the Rules. Variable factors such as seasonal loadings, nature of wastes, water table conditions, topography, soil and geology, land use, and any other factors impacting upon the situation may be taken into account in determining the degree of variance, if any, which may be allowed. Variances may be granted under the following procedures:

(1) Any person may request a variance from specific provisions of these Rules by submitting an application through the Local Health Officer. Such application shall consist of a letter stating the request, the Rule and paragraph from which a variance is requested, the reasons and circumstances which support the request, and other pertinent data to support the request.

(2) The Local Health Officer shall review the application, request additional data as required, and forward the application and copies of all data with a recommendation for approval or denial to the Board.

(3) Any variance not granted within 60 days is deemed denied. However, the Board intends to respond to all variance requests. If approved, any conditions or time limitations needed to comply with all applicable state laws or to protect public health or the environment shall be specified by the Board. A date upon which the variance will no longer be valid shall be prescribed in the decision.

(4) Any person may submit a request in writing to extend a prior or existing variance. The person shall demonstrate need for continuation of the variance. The variance may be issued or extended for another period upon findings by the Board that the reissuance or extension of the variance would not endanger public health or the environment.

(5) Any variance may be revoked if the Board finds that:

(a) The person is in violation of any requirement, condition, schedule, or limitation of the variance.

(b) Operation under the variance is threatening public health or the environment. Written notice of revocation shall be provided to the person granted the variance.

(6) If, in the case of a man-made or natural disaster, the Board finds that certain requirements cannot be complied with, and that public health is better served by not fully complying with these Rules, the Board may authorize the suspension of the application of the Rules for a specifically affected person(s) or site, and institute a provisional regulatory plan until the disaster is abated.

(7) The denial or revocation of a variance, in whole or in part, may be appealed to the Board in accordance with the agency's hearing procedures.

(8) The granting of a variance, in whole or in part, may likewise be appealed by any affected person.

Authors: 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.

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420-3-5-.16 Permit Or Certificate Of Revocation.

The Board or Local Health Officer may 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, if the holder of the permit or certificate fails to perform such activity in accordance with the approved plan, if the holder of the permit or certificate submitted false information, or if such activity creates a nuisance or is

inconsistent with the Act or these Rules. In the event of modification or revocation of a permit or certificate, the Board or Local Health Officer, as the case may be, shall serve written notice of such action on the permit or certificate holder, and shall set forth in such notice the reasons for such action.

Authors: 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 October 20, 1994. **Emergency Repeal and New Rule:** Filed November 20, 1997. **Repealed and Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.17 Transfer Of Permit Or Certificate.

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

Authors: 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 October 20, 1994. **Emergency Repeal and New Rule:** Filed November 20, 1997. **Repealed and Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.18 Penalty Of Violations.

No agency or person shall violate any of the provisions of these Rules. Any person who violates a provision of these Rules shall be subject to punishment according to law.

Authors: 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 October 20, 1994. **Emergency Repeal and New Rule:** Filed November 20, 1997. **Repealed and Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.19 Appeals.

(1) Any person who, after proper application, is denied a permit, certificate or authorization subject to these Rules shall be provided the reasons therefore and may, within seven days after receipt of said denial, apply in writing for an informal hearing to the Local Health Officer, or a designee thereof, in accordance with the Rules of the State Board of Health governing appeals.

(2) Any person who is in possession of a valid permit, certificate or authorization subject to these Rules and is notified in writing of an intent to suspend or revoke, or to deny renewal of said permit, certificate or authorization, shall be provided with the reasons therefore and may, within seven days of being notified, apply in writing for an informal hearing to the Local Health Officer, or a designee thereof, in accordance with the Rules of the State Board of Health governing appeals.

(3) If, after the informal hearing, the matter is not resolved to the satisfaction of the aforesaid person, written appeal in accordance with the Rules of the State Board of Health governing appeals may be made to the State Health Officer within seven days following said hearing. This appeal shall be sent directly to the State Health Officer, State Department of Health, Post Office Box 303017, Montgomery, Alabama, 36130-3017 with a copy furnished to the Health Officer of the County from which said denial or notice of intent was issued.

Authors: 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 October 20, 1994. **Emergency Repeal and New Rule:** Filed November 20, 1997. **Repealed and Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-6-.20 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.

Authors: 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 October 20, 1994. **Emergency Repeal and New Rule:** Filed November 20, 1997. **Repealed and Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.21 Repealer.

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

Authors: 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.

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420-3-5-.22 Communication.

All official communications, reports, and correspondence concerning this Chapter shall be addressed to the State Health Officer, Alabama Department of Public Health, Post Office Box 303017, Montgomery, Alabama, 36130-3017.

Authors: 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 October 20, 1994. **Emergency Repeal and New Rule:** Filed November 20, 1997. **Repealed and Replaced:** Filed January 21, 1998; effective February 25, 1998.

420-3-5-.23 Effective Date.

This Chapter shall be in full force and effect upon adoption and filing.

Authors: 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 October 20, 1994. **Emergency Repeal and New Rule:** Filed November 20, 1997.

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