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States' Environmental Justice Statutes: Alabama



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[AL Code § 22-22A-6.](#)

[AL Code § 22-27-40; 22-27-45; 22-27-48.](#)

[AL Code § 22-30-5.1.](#)

[AL Code § 22-30-12.](#)

Current through the 2021 Second Special Session.

§ 22-22A-6. Environmental Management Commission; powers and duties; composition; meetings; compensation; expenses; ethical requirements.

(a) There is hereby created a seven member Environmental Management Commission of the Alabama Department of Environmental Management which shall have the following duties:

- (1) To select a director for the Department of Environmental Management and to advise the director on environmental matters which are within the department's scope of authority;
- (2) To establish, adopt, promulgate, modify, repeal, and suspend any rules, regulations, or environmental standards for the department which may be applicable to the state as a whole or any of its geographical parts;
- (3) To develop environmental policy for the state; and
- (4) To hear and determine appeals of administrative actions.

(b) The Environmental Management Commission shall be composed of seven members who are citizens of the State of Alabama. Initial members of the commission shall be appointed to places on the Environmental Management Commission by the Governor, Lieutenant Governor, and Speaker of the House of Representatives pursuant to the procedure set out in subsection (d) with the advice and consent of the Senate. Initial appointments shall be made on or before October 1, 1982. All subsequent appointments to places on the Environmental Management Commission after the initial appointments shall be made by the Governor with the advice and consent of the Senate. No member of the Environmental Management Commission may serve more than a total of 18 years. When a vacancy occurs during a period when the Legislature is not in session to advise and consent, such appointee shall have the full power of the office until and unless the Senate, upon the reconvening of the Legislature, shall by affirmative vote refuse to consent in such appointment. Qualifications of the seven members shall be as follows:



- (1) One member shall be a physician licensed to practice medicine in the State of Alabama and shall be familiar with environmental matters;
- (2) One member shall be a professional engineer registered in the State of Alabama and shall be familiar with environmental matters;
- (3) One member shall be an attorney licensed to practice law in the State of Alabama and shall be familiar with environmental matters;
- (4) One member shall be a chemist possessing as a minimum a bachelor's degree from an accredited university or a veterinarian licensed to practice veterinary medicine in the State of Alabama and shall be familiar with environmental matters;
- (5) One member who is certified by the National Ground Water Association Certification Program or is a professional geologist;
- (6) One member shall be a biologist or an ecologist possessing as a minimum a bachelor's degree from an accredited university and shall have training in environmental matters; and
- (7) One member shall be a resident of the state for at least two years but shall not be required to have any specialized experience.

(c) At the expiration of the terms of all members initially appointed, their successors shall be promptly appointed by the Governor for terms of six years. The Governor shall coordinate his or her appointments to assure commission membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state. At the expiration of a term of office or in the event of a vacancy on the Environmental Management Commission, the Governor shall promptly make an appointment to fill the vacancy. The expiring term of an incumbent member shall be continued until an appointment is made.

(d) Provided however that the initial appointments to the Environmental Management Commission shall be made as follows notwithstanding the other provisions of this chapter:

- (1) The Governor shall appoint three members of the Environmental Management Commission, two of whom shall come from the voting members of the boards or commissions abolished by this chapter. The Governor's three initial appointments shall fill the positions described in subdivisions (4), (6), and (7) of subsection (b). The terms of these initial position appointments shall be for six years.
- (2) The Lieutenant Governor shall appoint two members of the Environmental Management Commission, one who shall come from the voting members of the boards or commissions abolished by this chapter. The Lieutenant Governor's appointments pursuant to this subsection shall fill the positions described in subdivisions (1) and (5) of subsection (b). The term of the initial position described in subdivision (1) of subsection (b) shall be for four years. The



term of the initial position described in subdivision (5) of subsection (b) shall be for two years.

(3) The Speaker of the House of Representatives shall appoint two members of the Environmental Management Commission, one who shall come from the voting members of the boards or commissions abolished by this chapter. The Speaker of the House of Representatives' appointments pursuant to this subsection shall fill the positions described in subdivisions (2) and (3) of subsection (b). The term of the initial position described in subdivision (2) of subsection (b) shall be for four years. The term of the initial position described in subdivision (3) of subsection (b) shall be for two years.

(e) The Environmental Management Commission shall select a chair from among its members, and the chair's term of office shall be determined by the Environmental Management Commission, but shall not exceed three consecutive years. The Environmental Management Commission shall not take official action unless a quorum is present. A quorum shall be any four of the seven members. Recusal of a member shall not affect the quorum.

(f) The Environmental Management Commission shall meet regularly, at least once every two months at times and places to be fixed by the Environmental Management Commission. Special meetings may be called at the discretion of the chair of the Environmental Management Commission and special meetings shall be called by him or her on written request of any four members to take up any matters within the jurisdiction of the Environmental Management Commission. All members shall be notified of the time and place of any regular or special meeting in writing or by telegram to a member's last known address as provided to the department or by telephone.

(g) Any member of the Environmental Management Commission who misses three consecutive regularly scheduled meetings shall immediately cease to be a member of the commission and the Governor shall promptly appoint a new member with appropriate qualifications to fill the remainder of the term.

(h) The Environmental Management Commission shall keep a complete and accurate record of the proceedings of all its meetings, a copy of which shall be kept on file in the office of the director and open to public inspection.

(i)

(1) Each member shall receive one hundred dollars (\$100) per day for each day of attendance at an official meeting. Members of the Environmental Management Commission shall be reimbursed for expenses when attending meetings which are approved and certified by the director. Reimbursement shall be in accordance with Sections 36-7-1 through 36-7-42.

(2) All proper expenses of the Environmental Management Commission shall be paid from the appropriations to or funds of the department in the same manner as expenses of the department are paid.



(j) Members of the Environmental Management Commission shall meet all requirements of the state ethics law and the conflict of interest provisions of applicable federal laws and regulations.

§ 22-27-40. Legislative findings.

The Legislature finds that:

- (1) The state, its subdivisions and the nation face an emerging crisis in solid waste management;
- (2) Proper waste management is an increasingly complex issue involving the need for reducing the volumes of waste requiring disposal, properly managing wastes to reduce the likelihood of both short-term and long-term threat to human health and the environment, and assuring that adequate, environmentally secure, waste management and disposal facilities will be available at reasonable costs to accommodate wastes generated in the state;
- (3) Provision for necessary systems, facilities, technology and services for solid waste management and resource recovery is a matter of important public interest and concern, and action taken in this regard will be for a public purpose and will benefit the public welfare;
- (4) Solid waste management problems are potentially statewide in scope and necessitate state and local action through the development and implementation of comprehensive long-range plans for solid waste management which recognize the conditions in the state now and those which can be expected in the foreseeable future, and which serve to assure that the state as a whole and local jurisdictions in particular will meet their long-term solid waste management needs;
- (5) Proper planning for solid waste management must include the evaluation of facility sites based on a broad group of factors including, but not limited to, environmental conditions, local needs for waste management, social and economic impacts on the host community, the availability and impact on public services, and the consistency of a proposed facility with any final solid waste management plan;
- (6) Proper solid waste management planning also should provide leadership in the application of new and improved methods and processes to reduce the amount of solid waste that must be disposed of and to promote environmentally acceptable and economically sound solid waste management;
- (7) The failure or inability to economically recover and recycle materials and energy resources from solid waste results in the unnecessary waste and depletion of natural resources;
- (8) The landfill disposal of solid waste, even under the most ideal conditions, has the potential to create long-term pollution and environmental degradation;
- (9) Current conditions and pending federal regulatory requirements likely will increase the costs of landfill disposal, prompt the closure of many landfills in the



state and likely change the methods of solid waste management in the state away from the present system of management by individual cities and counties and toward the development of larger facilities which must be capable of meeting the needs of several jurisdictions. Given this evolving situation, the Legislature concludes that a concerted solid waste management planning program is essential to address the imminent and future needs of the state;

(10) The absence of comprehensive planning will result in the random, haphazard siting of waste disposal services without relation to the actual needs of particular localities in the state, and therefore, to assure that the comprehensive planning required herein is most effective, the permitting of new facilities and the modification of permits for existing facilities should occur only after the comprehensive plans are in place. In the interim new permits or modifications should be issued only to prevent human health or environmental threats in the particular jurisdiction in the state to be served by the facility;

(11) Publicly owned solid waste management facilities are public resources of limited and finite capacity which the state, as guardian and trustee for its people, has the right and the obligation to preserve for the present and future use of its people; and

(12) The state or local governments, by creating and operating solid waste management facilities are participants in the solid waste facility services market and have entered that market for the purpose of serving the citizens of this state.

§ 22-27-45. State Solid Waste Management Plan.

The Director of the Alabama Department of Environmental Management, with the advice and consultation of the Solid Waste Management Advisory Committee, is directed to prepare a State Solid Waste Management Plan. In developing the state plan, the department will seek to achieve the following goals:

- (1) That solid waste facilities and management systems are provided for in an orderly manner consistent with the needs and plans of the state and its regions and local governments;
- (2) That alternative methods of solid waste management are encouraged as a means of reducing the state's dependence on landfilling;
- (3) That all aspects of local, regional and state planning, zoning, population estimates, and economics are taken into consideration; and
- (4) That appropriate time schedules are set for the phasing in of the required component parts of the system. Said plan shall be developed in two phases:
 - a. The first phase of the plan shall be developed prior to the development of the local plans required herein and shall serve as a guide for the local plans. Within 180 days of May 16, 1989, the department shall complete the first phase of the plan which shall, at a minimum:

1. Summarize, using available information, the number, location, current usage, and life expectancy of all permitted solid waste



management facilities in the state including without limitation all landfills, sanitary landfills, incinerators, transfer stations, processing facilities and resource recovery facilities;

2. Estimate, using acceptable averaging methods, the general volumes of solid waste expected to be generated in the state per year. After approval of all local plans as provided elsewhere herein, revise and periodically amend these estimates to reflect conditions as reflected in approved local plans;

3. Establish objectives, methods and goals to encourage solid waste reduction, recycling, reuse, and minimization, such objectives to include proposed regulations or legislation to implement a statewide goal of a 25 percent waste reduction and recycling program;

4. Identify alternative means to provide for waste management and disposal capacity assurance within the state;

5. Establish criteria to be used by local governments for the identification of potential locations for solid waste management facilities in the jurisdiction or region.

Such criteria shall at a minimum require consideration of the following:

(i) The unit of local government's solid waste management needs as identified in its plan;

(ii) The relationship of any potential location to planned or existing development or the absence thereof, to major transportation arteries and to existing state primary and secondary roads;

(iii) The relationship of any potential location to existing industries in the jurisdiction or state that generate large volumes of solid waste, or the relationship to areas projected by the state or the local regional planning and development commission for development of industries that will generate large volumes of solid waste;

(iv) The costs and availability of public services, facilities and improvements which would be required to support a facility in this location and protect public health, safety and the environment;

(v) The potential impact a facility in any potential location would have on public health and safety, and the potential that such locations can be utilized in a manner so as to minimize the impact on public health and safety; and

(vi) The social and economic impacts that any proposed location would have on the affected community, including



changes in property values and social or community perception.

6. Develop forms for use by local governments in completing their own plans.

b. The second phase of the plan shall be developed as the individual plans of local governments are approved by the department. It shall be the purpose of this phase to incorporate the local plans and to develop a final master plan for solid waste management in the state. This phase shall, at a minimum:

1. Revise all estimates and summaries contained in the first phase of the state plan to reflect information contained in the approved local plans;
2. Based on estimates of need as developed herein, project waste volume capacity needs annually for a 10-year period for the state and for each regional planning commission region and each county therein;
3. Based on the information developed in other parts of the plan, estimate and periodically revise said estimate of the number and type of solid waste management facilities which may be required to serve the future needs of the state and its local governments.
4. Encourage alternative management techniques for solid wastes;
5. Encourage the state's city and county jurisdictions to combine their efforts to manage solid wastes more efficiently;
6. Evaluate existing service areas and evaluate the option of developing waste flow controls within the state;
7. Develop policies and serve as a source of information for local jurisdictions regarding changing conditions in solid waste management;
8. Make such other determinations and recommendations as the director shall deem necessary or appropriate in keeping with the findings and purposes of the Legislature set forth herein.

c. Generally, the state's solid waste management plan shall be subject to amendment and periodic revision. Each periodic revision of the solid waste management plan may include:

1. A revised estimate of solid waste generation and disposal in the state projected for a 10-year period.
2. The total amounts of solid waste generated, recycled, and disposed of, and the methods of solid waste recycling and disposal used during the calendar year prior to the year in which the plan is revised.



3. An evaluation of the development and implementation of local solid waste management programs and county and municipal recycling programs.
4. An evaluation of the success of each county or group of counties in meeting the local solid waste reduction goals.
5. Recommendations concerning existing and potential programs for solid waste reduction and recycling that would be appropriate for local governments and state agencies to implement to meet the requirements of this article.
6. An evaluation of the markets for recycled materials and the success of state, local, and private industry efforts to enhance the markets for such materials.
7. Recommendations to the Governor and the Legislature to improve the management and recycling of solid waste in this state.

d. At the completion of each phase of development of the State Solid Waste Management Plan and each subsequent revision, the plan, as revised, shall be adopted by the department as a final regulation in accord with applicable statutory procedures.

§ 22-27-47. Local plans required.

(a) Each county and any municipality as described below shall submit to the department, within one and one-half years of May 16, 1989, a plan for the management of solid waste generated within its boundaries. A county's plan shall include the municipal jurisdictions within its boundaries except that any municipality may choose to submit its own solid waste management plan intended for implementation within its city limits and thereby be excluded from its county plan. Cities which do not choose to exclude themselves from their county's plan shall be responsible to share in the county's costs proportionately on a per capita basis. The content of all plans shall be consistent with the requirements of this article and every plan shall not become final until it has been officially adopted and approved pursuant to the requirements of this article. In the event a county or city does not submit a required plan or if said plan does not meet the minimum requirements set out in this article, the department shall prepare the plan which shall serve as the official county or city plan.

(b) Each plan shall at a minimum:

- (1) Describe and explain the general origin, and weight or volume of solid waste currently generated within the jurisdiction's boundaries. For purposes of this estimate the jurisdiction may use such information as is reasonably available, or may use accepted methods of estimation recommended by the department;
- (2) Identify current methods of collection and haulage of solid waste within the jurisdiction;



(3) Identify and describe the facilities where solid waste is currently being disposed or processed and the remaining available permitted capacity of such facilities and the capacity which could be made available through the reasonable expansion of such facilities. The plan shall also explain the extent to which existing facilities will be used during the life of the plan and shall not substantially impair the use of their remaining permitted capacity;

(4) Provide a description of current or planned recycling programs and an analysis of their impact on waste generated within the jurisdiction. Particularly regarding recycling, the plan shall describe and evaluate:

- a. Potential benefits of recycling, including the potential solid waste reduction and the avoided cost of municipal waste processing or disposal.
- b. Existing materials recovery operations and the kind and weight or volume of materials recycled by the operations, whether public or private.
- c. The compatibility of recycling with other waste processing or disposal methods used in the jurisdiction including methods of collecting recyclables.
- d. Options for cooperation or agreement with other jurisdictions for the collection, processing and sale of recyclable materials.

(5) Address the requirements proposed under Subtitle D of the federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 as amended and identify and explain those actions the jurisdiction should take to assure proper management of its wastes under these requirements;

(6) Propose procedures for the identification and elimination of unauthorized dumps in the jurisdiction;

(7) Describe and explain the general origin and weight or volume of solid waste reasonably expected to be generated within the jurisdiction annually during the next 10 years. The assessment shall describe the primary variables affecting this estimate and the extent to which they can reasonably be expected to affect the estimate;

(8) Provide for the development or expansion of solid waste management systems in a manner that is consistent with the needs of the area, taking into account planning, zoning, population and development estimates, and economics of the jurisdiction and the protection of air, water, land and other natural resources;

(9) Identify any current agreements between the jurisdiction and other units of local government or public authorities for the joint use of solid waste processing or disposal facilities and evaluate the need for and feasibility of entering joint agreements in the future;



(10) Identify any current contractual agreements with private entities for the collection, processing or disposal of solid waste and evaluate the need for and feasibility of entering into such agreements in the future;

(11) Identify the general location within a county where solid waste processing or disposal facilities and recycling programs may be located, and identify the site of each facility if a site has already been chosen. In identifying general locations for facilities in the plan, each jurisdiction shall consider at least the following:

a. The jurisdiction's solid waste management needs as identified in its plan;

b. The relationship of the proposed location or locations to planned or existing development, to major transportation arteries and to existing state primary and secondary roads;

c. The relationship of the proposed location or locations to existing industries in the jurisdiction or state that generate large volumes of solid waste and to the areas projected by the state or local regional planning and development commission for development of industries that will generate solid waste;

d. The costs and availability of public services, facilities and improvements which would be required to support a facility in this location and protect public health, safety and the environment;

e. The potential impact a facility in the proposed location or locations would have on public health and safety, and the potential that such locations can be utilized in a manner so as to minimize the impact on public health and safety; and

f. The social and economic impacts that a facility at the proposed location would have on the affected community, including changes in property values, community perception and other costs;

(12) For any facility expected to serve the jurisdiction's future needs that is located or is proposed to be located outside the jurisdiction, the plan shall explain in detail the reasons for selecting such a facility;

(13) The plan shall include such other information as the department may require by regulation.

(c) Counties may, by agreement with other counties, combine in the development of a joint solid waste management plan.

(d) The department and the local regional planning and development commission shall, upon request, provide assistance to any county or municipality in the development of their local plan.



(e) The plan shall be completed on forms provided by the department and in accordance with the provisions of this act and any regulations promulgated by the department.

(f) Prior to final adoption or amendment of a plan, the jurisdiction shall afford the public an opportunity to present data, views and arguments thereon, orally or in writing. The public comment period shall be no less than 30 days in length and shall include at least one public hearing. Notice of the public comment period shall be published at least once in a newspaper of general circulation in the jurisdiction and in the official gazette, if any, in the jurisdiction. Notice of the inclusive dates of the public comment period and the date of the public hearing may be combined in the same publication. Notice of the time and place of the public hearing shall be published at least 30 days, but not more than 45 days prior to the date of said hearing. Any published notice shall contain a brief description of the proposed plan, and shall identify a location where copies of the plan shall be available for inspection during normal business hours, and shall also identify a contact person from whom interested persons can obtain additional information or copies of the proposed plan. The plan, including any revisions, subsequently submitted for adoption shall be accompanied by a document containing written responses to comments made during the comment period.

(g) The governing body of the jurisdiction shall adopt the final plan within 60 days from the end of the public comment period at an official business meeting open to the public.

(h) Upon completion and adoption of the local plan, it shall be submitted to the department for review and approval. Within 30 days after receiving a complete plan, the department shall approve, conditionally approve or disapprove it, unless the department gives written notice that additional time is necessary to complete its review. If the department gives such notice, it shall have 30 additional days to render a decision. The department shall approve any local plan that demonstrates to the satisfaction of the department that:

(1) The plan is complete and accurate and consistent with this article and regulations promulgated hereunder.

(2) The plan provides for the processing and disposal of municipal waste in a manner that is consistent with the requirements of the solid waste management act and the regulations promulgated pursuant thereto.

(3) The plan provides for the processing and disposal of local waste for at least 10 years.



(i) Each county and municipality with an approved solid waste management plan shall submit a revised plan to the department in accordance with the requirements of this article:

(1) At least three years prior to the time all remaining available permitted capacity for the jurisdiction will be exhausted, or

(2) When otherwise required by the department.

§ 22-27-48. Implementation of plans.

(a) In addition to any regulatory bodies, the governing body of a county or municipality has a responsibility for and the authority to assure the proper management of solid wastes generated within its jurisdiction in accord with its solid waste management plan. A governing body may assign territories and approve or disapprove disposal sites in its jurisdiction in accord with the plan approved for its jurisdiction. Such approval or disapproval of services or activities described in the local plan shall be in addition to any other approvals required from other regulatory authorities and shall be made prior to any other approvals necessary for the provision of such services, the development of a proposed facility or the modification of permits for existing facilities.

(b) The department may not consider an application for a new facility unless the application has received approval pursuant to Section 22-27-48.1 by the affected local governing body. The department may not consider an application for a modified permit for a facility unless such application has received approval pursuant to this section by the affected local governing body.

(c) In determining whether to recommend approval of the proposed issuance of or modification of a new or existing solid waste management site, the governing body shall consider each of the following criteria:

(1) The consistency of the proposal with the jurisdiction's solid waste management need as identified in its plan.

(2) The relationship of the proposal to local planned or existing development or the absence thereof, to major transportation arteries and to existing state primary and secondary roads.

(3) The location of a proposed facility in relationship to existing industries in the state that generate large volumes of solid waste, or the relationship to the areas projected for development of industries that will generate solid waste.

(4) Costs and availability of public services, facilities and improvements required to support a proposed facility and protect public health, safety, and the environment.

(5) The impact of a proposed facility on public safety and provisions made to minimize the impact on public health and safety.



(6) The social and economic impacts of a proposed facility on the affected community, including changes in property values, and social or community perception.

(d) The application of the plan for local approval shall be accompanied by an application fee payable to the local governing body in an amount equal to 20 percent of the application or permit fee required by the department, but local approval shall not apply to simple renewals of a permit which is to be otherwise unchanged. Further, there shall be no requirement for local review and approval of permit modifications for the limited purposes of changing liner and leachate collection design, changes in waste streams from within the facility's designated service area, changes in sequence of fill, changes to incorporate new technology, and changes intended to bring a facility into compliance with statutes and regulations. A renewed application for local approval submitted within 18 months of an application being denied or rejected by the local governing body shall be accompanied by an application fee payable to the local governing body in an amount equal to 50 percent of the application or permit fee required by the department.

(e) Any decision by the local governing body of a proposed modification of a permit for an existing solid waste management site or the proposal to contract for any services described in the solid waste management plan, shall be made in a public meeting only after public notice of such application or proposal and an opportunity for public comment is provided.

(f) In providing public notice of any proposed modification, the local government shall at a minimum hold at least one public hearing thereon, notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the jurisdiction. Furthermore, the notice shall be given at least 30 days but not more than 45 days prior to the proposed date of the hearing. Each notice published in compliance with this section shall contain at a minimum a description of the proposed action to be considered, its relevance to and consistency with the local solid waste management plan, and shall identify a contact person from whom interested persons can obtain additional information and can review copies of both the local plan and the proposal to be considered. All pertinent documents shall be available for inspection during normal business hours at a location readily accessible to the public. Within 90 days of receiving a proposal, the local governing body shall either approve or deny the modification setting forth the reasons therefor. The failure of the local governing body to act on the proposal within 90 days of receiving the modification shall constitute approval by the local governing body.

(g) Any decision by the local governing body to approve or disapprove the siting of a new solid waste management facility shall be made in accordance with Section 27-22-48.1.

(h) This section shall not apply to industrial facilities receiving wastes generated on site only or by the permittee.

(i) This section as amended by Act 2017-366 shall not apply to an application received by a local governing body prior to May 25, 2017, for a modification of an existing



permitted solid waste management facility, or for a proposed new solid waste management facility.

§ 22-30-5.1. Restriction on number of commercial hazardous waste treatment facilities or disposal sites per county; legislative approval of sites.

(a) The term “hazardous waste” shall mean the same as defined by Section 22-30-3(5).

(b) Committee shall mean the continuing Select Joint Nuclear Energy Activities and Hazardous Chemical Toxic Waste Oversight Committee as created by Act No. 81-307, H.J.R. 254 (p. 392), as amended by Act No. 84-329, S.J.R. 214 (pp. 754-755).

(c) There shall be no more than one commercial hazardous waste treatment facility or disposal site as defined by subdivisions (4) and (14) of Section 22-30-3 situated within any one county of the state. Provided, however, no commercial hazardous waste treatment or disposal site not in existence on or before December 31, 1988, shall be situated until: (1) a written proposal or application addressing the items found in subdivisions (d)(1) through (d)(7) of this section is submitted by the applicant wishing to construct such facility for review to the Select Joint Nuclear Activities and Hazardous Chemical Toxic Waste Oversight Committee, and; (2) said committee, upon due consideration of said application, presents to both houses of the Legislature its written report and recommendations regarding the proposed siting or construction of said facility, and; (3) the Legislature thereafter gives approval therefor by joint resolution.

Provided, however, legislative approval shall not be required for industries with on site treatment, storage, and disposal of their own hazardous wastes.

(d) In determining whether to recommend approval to the proposed siting or construction of a commercial hazardous waste treatment facility or disposal site, the committee shall consider and include in its written report to the Legislature an evaluation of the following criteria:

(1) The social and economic impacts of the proposed facility on the affected community, including changes in property values, community perception, and other costs;

(2) Costs and availabilities of public services, facilities, and improvements required to support the facility and protect public health, safety and the environment;

(3) The relationship of the proposed facility to local planning and existing development to major transportation arteries, to existing state primary and secondary roads and to the hydrology of the area;

(4) The location of the proposed facility in relationship to existing industries in the state that generate large volumes of hazardous waste and to the areas projected for development of industries that will generate hazardous waste so as to minimize the transportation distance between the major generators of hazardous waste and the proposed facility. The Alabama Department of Environmental Management and the Alabama Department of Economic and Community Affairs and other appropriate state agencies shall provide the committee with data concerning said existing and projected areas of hazardous waste generation in the state;



- (5) The impact of the proposed facility on public safety and provisions made to minimize the risk to public health and safety;
 - (6) The consistency of the proposed facility with the state's hazardous waste management needs;
 - (7) The need for additional hazardous waste facilities.
- (e) The committee's written report shall be prepared and submitted to both houses of the Legislature in accordance with the committee's standard rules of procedure for transacting business.

§ 22-30-12. Permit program.

- (a) The department, acting through the commission, is authorized to promulgate a permit program for hazardous waste management practices and, acting through the commission, to promulgate criteria for issuing permits and rules identifying procedures for obtaining permits.
- (b) Except as provided by this subsection or subsections (i) and (j) of this section, no person shall engage in the transportation, treatment, storage or disposal of hazardous waste without having applied for and obtained a permit from the department issued under authority of this section. The department, acting through the commission, may promulgate rules which exempt certain hazardous waste management practices from the requirement to obtain a permit under this section.
- (c) Unless specifically exempted from regulation by this chapter or rules promulgated under authority of this chapter, no person may commence or continue construction or operation of any hazardous waste treatment, storage or disposal facility without having applied for and obtained a permit from the department issued under authority of this section. Each permit issued under this section shall contain such terms and conditions as the director determines necessary to protect human health or the environment.
- (d) Permits for hazardous waste treatment, storage or disposal facilities shall be for a fixed term, not to exceed 10 years. Each permit for a land disposal facility shall be reviewed five years after the date of issuance or reissuance and shall be modified as necessary to assure that the facility continues to comply with the applicable requirements of this section and Section 22-30-16. Nothing in this subsection shall preclude the department from reviewing and modifying a permit at any time during its term.
- (e) Permits for hazardous waste transportation shall be for a fixed term, not to exceed three years. Nothing in this subsection shall preclude the department from reviewing and modifying a permit at any time during its term.
- (f) Any person proposing to transport hazardous waste or to construct or operate a hazardous waste treatment, storage or disposal facility shall submit, prior to issuance of any permit, such financial assurance in such form and amount as the department, acting through the commission, may specify by rule.



(g) Before issuance of any permit for a hazardous waste treatment, storage or disposal facility, the department shall give notice of the application therefor to the local governing bodies having jurisdiction over the facility and the citizens of the county in which the facility is to be located, receive public comment, and may, where significant interest is expressed or on its own initiative, hold a public hearing on the application.

(h) Upon a determination by the department that a facility for which an application has been received is in compliance with the requirements of this section, Section 22-30-16 and the applicable rules and regulations promulgated under authority of this chapter, the department shall issue a permit for such facility. In the event permit applicants propose modification of existing facilities, or in the event the department determines that modifications are necessary to conform to the requirements under this section, Section 22-30-16 or applicable rules and regulations promulgated under authority of this chapter, the permit shall specify the time allowed to complete the modifications.

(i) Interim status.

(1) Any person who

a. Owns or operates a facility required to have a permit under this section which facility

1. Was in existence on November 19, 1980, or

2. Is in existence on the effective date of statutory or regulatory changes under this chapter which render the facility subject to the requirement to have a permit under this section, and

b. Has complied with the requirements of Section 3010(a) of the RCRA, and

c. Has made an application for a permit under this section shall be treated as having been issued such permit until such time as final administrative disposition of such permit is made, unless the department proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. This subsection shall not apply to any facility which has previously been denied a permit under this section or if authority to operate the facility under this section has been previously terminated.

(2) Land disposal facilities which had qualified for federal interim status prior to November 8, 1984, and which failed to fully comply with the requirements of Section 3005(e)(2) of the RCRA by November 8, 1985, shall not be eligible for interim status under this subsection.

(3) In the case of each land disposal facility which is in existence on the effective date of statutory or regulatory changes under this act that render the facility subject to the requirement to have a permit under this section and which is granted interim status under this subsection, interim status shall



terminate on the date 12 months after the date on which the facility first becomes subject to such permit requirement unless the owner or operator of such facility:

- a. Applies for a final determination regarding the issuance of a permit under subsection (c) of this section for such facility not later than 12 months after the date on which the facility first becomes subject to such permit requirement; and
- b. Certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(4) The department, acting through the commission, shall promulgate rules and regulations establishing such additional requirements regarding qualifications for receiving and retaining interim status as may be deemed necessary to protect human health or the environment or to be consistent with federal interim status requirements.

(j) No permit shall be required under this section in order to construct a facility if such facility is constructed pursuant to an approval issued by the Administrator of the United States Environmental Protection Agency under Section 6 (e) of the Federal Toxic Substances Control Act for the incineration of polychlorinated biphenyls and any person owning or operating such a facility may at any time after operation or construction of such facility has begun, file an application for a permit pursuant to this section authorizing such facility to incinerate hazardous waste identified or listed under this chapter.

(k) Upon a determination by the department of noncompliance by a facility or site having a permit or interim status under this section with the requirements of this chapter, the rules or regulations promulgated under authority of this chapter, a permit issued under authority of this chapter or any order issued under authority of this chapter, the department may suspend or revoke such permit or suspend or terminate such interim status.

(l) Nothing in this act shall be construed to affect the applicability or effect of the Minus Act, Section 22-30-5.1.

