

Title 68. Health, Safety and Environmental Protection

Chapter 211. Solid Waste Disposal

Part 8. Solid Waste Management Act of 1991

68-211-801. Short title.

This part shall be known and may be cited as the "Solid Waste Management Act of 1991."

68-211-802. Part definitions.

(a) As used in this part, unless the context otherwise requires:

(1) "Authority" or "solid waste authority" means any public instrumentality organized pursuant to part 9 of this chapter;

(2) "Board" means a board, established to manage the affairs of a municipal solid waste management region, except in §§ 68-211-119 -- 68-211-121, 68-211-852 [repealed], 68-211-853, 68-211-867 and 68-211-871 where "board" means the underground storage tanks and solid waste disposal control board created in § 68-211-111;

(3) "Commissioner" means the commissioner of environment and conservation;

(4) "Convenience center" means any area which is staffed and fenced that has waste receptacles on site that are open to the public, when an attendant is present, to receive household waste, municipal solid waste and recyclable materials;

(5) "Department" means the department of environment and conservation;

(6) "Development district" means a development district organized pursuant to title 13, chapter 14;

(7) "Household hazardous waste" means solid wastes discarded from homes or similar sources as listed in 40 CFR 261.4(b)(1), that are either hazardous wastes as listed by the EPA in 40 CFR 261.33(e) or (f), or wastes that exhibit any of the following characteristics as defined in 40 CFR 261.21 -- 261.24: ignitability, corrosivity, reactivity and TCLP toxicity;

(8) "Household waste" means any waste material, including garbage, trash and refuse, and yard waste derived from households. Households include single and multiple residences, campgrounds, picnic grounds and day-use recreation areas;

(9) "Landfill" means a facility, permitted pursuant to part 1 of this chapter, where solid wastes are disposed of by burial in excavated pits or trenches or by placement on land and covering with

soil or other approved material;

(10) "Municipal solid waste" means any garbage, refuse, industrial lunchroom or office waste, household waste, household hazardous waste, yard waste, and any other material resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities; provided, that "municipal solid waste" does not include the following:

(A) Radioactive waste;

(B) Hazardous waste as defined in § 68-212-104;

(C) Infectious waste;

(D) Materials that are being transported to a facility for reprocessing or reuse; provided further, that reprocessing or reuse does not include incineration or placement in a landfill; and

(E) Industrial waste which may include office, domestic or cafeteria waste, managed in a privately owned solid waste disposal system or resource recovery facility, if such waste is generated solely by the owner of the solid waste disposal system or resource recovery facility;

(11) "Operator" means the person who is in charge of the actual, on-site operation of a solid waste management facility during any period of operation;

(12) "Person" means "person" as defined in § 68-211-103;

(13) "Recovered materials" means those materials which have been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not requiring subsequent separation processing. Such recovered materials are not solid waste;

(14) "Recovered materials processing facility" means a facility engaged solely in the storage, processing and resale or reuse of recovered materials. A recovered materials processing facility is not a solid waste processing facility;

(15) "Recyclable materials" means those materials which are capable of being reused or returned to use in the form of raw materials or products, whether or not such materials have been diverted or removed from the solid waste stream;

(16) "Recycling" means the process by which recovered materials are transformed into new products, including the collection, separation, processing, and reuse of recovered materials either directly or as raw materials for the manufacture of new products;

(17) "Region" means a municipal solid waste region organized pursuant to § 68-211-813(a);

(18) "Shredded" means shredded, chipped, chopped, quartered, sliced at least circumferentially, or otherwise processed and rendered not whole in a manner to effectively prevent a tire from floating, as determined by the board;

(19) "Solid waste stream" means the system through which solid waste and recoverable materials move from the point of discard to recovery or disposal;

(20) "Tire" means the continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle;

(21) "Transporter" means a person engaged in the transportation of municipal solid waste collected or to be baled or processed, or disposed of in Tennessee by rail, highway or water, in significant amounts. The amounts deemed significant shall be determined by the board and established by regulation;

(22) "Used oil" means any oil which has been refined from crude or synthetic, or recovered oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and may be economically recycled or may be burned as fuel;

(23) "Waste tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage or defect; and

(24) "Yard waste" means vegetative matter resulting from landscaping, lawn maintenance and land clearing operations other than mining, agricultural and forestry operations.

(b) Unless the context requires otherwise or this section defines a term differently, the definitions set forth in §§ 68-211-103, 68-212-104 and 68-212-303, and in any regulations promulgated pursuant to this chapter and chapter 212 of this title, apply to terms used in this part.

68-211-803. Public policy.

(a) It is declared to be the policy of this state, in furtherance of its responsibility to protect the public health, safety and well-being of its citizens and to protect and enhance the quality of its environment, to institute and maintain a comprehensive, integrated, statewide program for solid waste management, which will assure that solid waste facilities, whether publicly or privately operated, do not adversely affect the health, safety and well-being of the public and do not degrade the quality of the environment by reason of their location, design, method of operation or other means and which, to the extent feasible and practical, makes maximum utilization of the resources contained in solid waste.

(b) It is further declared to be the policy of this state to educate and encourage generators and handlers of solid waste to reduce and minimize to the greatest extent possible the amount of solid waste which requires collection, treatment, incineration or disposal through source reduction, reuse, composting, recycling and other methods.

(c) It is further declared to be the policy of this state to promote markets for, and engage in the purchase of, goods made from recovered materials and goods which are recyclable.

68-211-804. Applicability.

Unless specifically otherwise provided, this part does not apply to:

- (1) Hazardous waste, regulated pursuant to chapter 212 of this title, except household hazardous waste;
- (2) Infectious waste;
- (3) Radioactive waste; or
- (4) Industrial waste, which may include office, domestic or cafeteria waste, managed in a privately owned solid waste disposal system or resource recovery facility, if such waste is generated solely by the owner of the solid waste disposal system or resource recovery facility.

68-211-805. Liberal construction.

This part is remedial in nature and shall be liberally construed to effect its purpose of providing for a systematic and efficient means of solid waste disposal and encouraging the best utilization and conservation of energy and natural resources.

68-211-806. Research and development regarding using solid waste materials as raw materials to create jobs, business and compost.

(a) Tennessee State University and Middle Tennessee State University may research and develop methods to address how to use the materials in solid waste as raw materials to create jobs, business and compost.

(b) Such research by the universities may include how to divert food waste and yard waste, which make up twenty-five percent (25%) of the waste stream, from landfills to create useful compost and clean methane gas.

(c) Such methods and research may be made available to government agencies and others involved in solid waste reform. Such research and work shall be funded entirely from non-state sources.

(d) The universities will demonstrate the extent to which such reforms are cost effective. For example, that diversion of materials in solid waste as raw materials in business and compost creates jobs and profits.

68-211-807. [Repealed.]

68-211-808 -- 68-211-810. [Reserved.]

68-211-811. Municipal solid waste planning district -- District needs assessment.

(a) The counties within each development district, as established pursuant to title 13, chapter 14, including all municipalities therein, shall constitute a municipal solid waste planning district. Each district shall submit a district needs assessment for all of the counties within the district to the department of environment and conservation by September 30, 1992. The needs assessment for the municipal solid waste planning district shall be conducted by the staff of the development district. Such staff shall coordinate and maintain the plan. The needs assessment shall be revised to reflect subsequent developments in the district by April 1, 1999, and every five (5) years thereafter.

(b) In conjunction with the commissioner, each development district shall sponsor a district-wide meeting to deliver the findings of the district needs assessment to the citizens of the district.

(c) The district needs assessment will identify rational waste disposal areas within the district and include at least the following information:

- (1) Demographic information and projections for a ten-year planning period;
- (2) An analysis of economic activity within the district;
- (3) Characterization of the solid waste stream;
- (4) Projections of solid waste generation for the ten-year planning period;
- (5) Evaluation of the collection systems for every municipality and county within the district;
- (6) Evaluation of existing solid waste capacity and management facilities within the district and evaluation of any planned new or expanded facilities;
- (7) A statement of district goals that are consistent with the state plan;
- (8) An analysis of existing or potential waste flows within the district and between adjacent districts;
- (9) A comparison of projected demands from waste generation and importation of waste with available and projected capacity and an identification of potential shortfalls in capacity; and
- (10) Any additional information as the commissioner may require.

68-211-812. [Repealed.]

68-211-813. Municipal solid waste regions -- Board -- Plan for disposal capacity and waste reduction -- Regional municipal solid waste advisory committee.

- (a) (1) After consideration of the needs assessment is completed, municipal solid waste regions

shall be established by resolutions of the respective county legislative bodies by December 12, 1992. A municipal solid waste region shall consist of one (1) county or two (2) or more contiguous counties. If the region consists of more than one (1) county, an agreement establishing the region shall be approved by the legislative body of each county that is a party to the agreement.

(2) Once established, municipal solid waste regions shall continue to exist until dissolved, a successor region or regions established and the requirements of this section are met. A municipal solid waste region may be dissolved and a new region or reconfigured region established upon completion of the following procedure:

(A) The approval of the dissolution of the existing region by resolution of the county legislative body of each county in the existing region;

(B) The approval of the proposed new or reconfigured region by resolution of the county legislative body of each county that is to be a part of the new or reconfigured region;

(C) The submittal to the department of environment and conservation of a list of the new board members, their addresses, phone numbers, terms of office and a new or revised plan for any new or reconfigured region that complies with the requirements of this part; and

(D) The approval of the department of environment and conservation of all of the new or revised plans for all of the new or reconfigured regions.

(3) Each county and region shall continue to follow the existing approved plan until new or revised plans are approved by the department of environment and conservation for each new or reconfigured region.

(4) The preferred organization of the regions shall be multi-county. Any county adopting a resolution establishing a single-county region shall state the reasons for acting alone in the resolution.

(b) (1) (A) The resolution establishing a region for a county or approving an agreement to establish a region with other counties shall provide for the establishment of a board to administer the activities of the region. This board shall consist of an odd number, not less than five (5) nor more than fifteen (15). Each county that is a member of a region shall be represented by at least one (1) member on the board. Municipalities that provide solid waste collection services or provide solid waste disposal services, directly or by contract, shall be represented on the board. The members of the board shall be appointed by the county mayors and municipal mayors, respectively, of the counties and eligible municipalities within the region. Municipalities entitled to representation on the board may agree to joint or multiple representation by a board member or for a county member to represent one (1) or more municipalities upon agreement of all local governments who share representation by a board member. Any such agreement shall specify the method of making the appointment for a member representing more than one (1) local governmental entity. Members of county and municipal governing bodies, county mayors, municipal mayors, county and municipal officers and department heads may be appointed to the

board. Appointments must be approved by the legislative or governing bodies of the respective counties and eligible municipalities within the region. The members of the board shall serve for terms of six (6) years or until their successors are elected and are qualified by taking an oath of office, except that the initial board shall have approximately one third (1/3) of the members with terms of two (2) years, and approximately one third (1/3) of the members with terms of four (4) years, so as to stagger the terms of office.

(B) The county and municipal mayors, and any other authorities, who appoint members to regional boards created under subdivision (b)(1)(A) must strive to ensure that at least two (2) elected officials serve on each regional board.

(2) Any county that has a solid waste authority, not organized pursuant to part 9 of this chapter and in existence on July 1, 1991, may designate such authority as the board to administer the activities of the region, if such county chooses to be a region unto itself. The legislative body of the county and of each municipality that provides solid waste collection services or solid waste disposal services in the region shall approve such designation by the passage of an appropriate resolution.

(3) Appointments made after July 1, 1994, to the board for a municipal solid waste region consisting of counties having a population less than two hundred thousand (200,000), according to the 1990 federal census or any subsequent federal census, shall be made so that rural landowners shall have representation on the board, and by December 31, 1998, at least thirty percent (30%) of the membership shall consist of members who own at least a fifty percent (50%) equitable or fee simple interest in land that is eligible for classification as agricultural, forest or open space land under the terms of the Agricultural, Forest and Open Space Land Act of 1976, compiled in title 67, chapter 5, part 10.

(c) Each region shall develop a plan for a ten-year disposal capacity, and for achieving compliance with the waste reduction and recycling goal required by § 68-211-861.

(d) The legislative body of any municipality which lies within the boundaries of two (2) or more regions shall select by resolution in which region it shall participate.

(e) Within each municipal solid waste region, the board of the region shall establish a regional municipal solid waste advisory committee whose composition shall be determined by the board.

68-211-814. Municipal solid waste region plans -- Authority of region or solid waste authority after approval.

(a) (1) Each region shall submit its plan to the department of environment and conservation by July 1, 1994. The plan shall be formulated in strict compliance with § 68-211-815. After receiving a plan, the department shall approve or disapprove the plan within ninety (90) days. The department shall approve the plan if it adequately addresses each element required by § 68-211-815. If a plan is disapproved, the department shall state in detail the reasons for such disapproval. The region shall review any disapproved plan and shall resubmit a plan which corrects all deficiencies to the department within sixty (60) days of receiving the letter of

disapproval.

(2) The plan may be revised at any time to reflect subsequent developments in the region. Each revised plan shall be submitted to, reviewed by and approved or disapproved by the department of environment and conservation in the same manner as the initial plan.

(3) Each municipal solid waste region shall submit an annual progress report to the department covering the next ten (10) years that includes, at a minimum, the information contained in § 68-211-815(b).

(b) (1) (A) If the commissioner approves the plan, the region or solid waste authority, if one has been formed pursuant to part 9 of this chapter, by resolution and subsequent adoption of ordinances by counties and municipalities in the region, may also regulate the flow of collected municipal solid waste generated within the region. Prior to the adoption of any resolution declaring the necessity of requiring mandatory flow of municipal solid waste, the region or authority, following one (1) or more public hearings, shall demonstrate in writing to the commissioner that it has considered the utilization of any municipal solid waste management facility in existence within the region on July 1, 1991, which meets the proposed or final federal Resource Conservation and Recovery Act (RCRA), compiled in 42 U.S.C. § 6901 et seq., Subtitle D regulations. The region or authority must show that its decision not to use the existing facility is based on the fact that:

(i) Such facility is environmentally unsound or inadequate to meet the region's ten-year capacity assurance plan;

(ii) (a) Costs for the use of such facility are inconsistent with comparable facilities within the state; or

(b) The existing facility is operating in a manner that is inconsistent with the plan; and

(iii) The waste subject to flow control will be sent only to a facility or facilities that meet all state and federal regulations.

(B) The region or authority may restrict access to any landfills and incinerators which dispose of municipal solid waste by excluding waste originating with persons or entities outside the region in order to effectuate the plan. If a facility within a region has accepted waste from a specific source outside the region prior to July 1, 1991, the region may not prohibit that facility from continuing to accept waste from that source, unless the facility's acceptance of that waste significantly impairs the region's ability to effectuate its plan.

(C) Appeal of final actions of the region or authority, including any determinations under subdivision (b)(1), shall be taken by an aggrieved person within thirty (30) days to any chancery court in the region or authority which took such final action.

(D) After the plan is approved, the region must approve any application for a permit for a solid waste disposal facility or incinerator within the region as is consistent with the region's

disposal needs before any permit is issued by the commissioner pursuant to this chapter.

(2) (A) An applicant for a permit for construction or expansion of a solid waste disposal facility or incinerator shall submit a copy of the application to the region at or before the time the application is submitted to the commissioner. The region shall review the application for compliance with this section, and shall conduct a public hearing after public notice has been given in accordance with title 8, chapter 44, prior to making the determination provided for in this subdivision (b)(2). The hearing shall afford all interested persons an opportunity to submit written and oral comments, and the proceeding shall be recorded and transcribed. The region shall render a decision on the application within ninety (90) days after receipt of a complete application. The region shall immediately notify the commissioner of its acceptance or rejection of an application.

(B) The region may reject an application for a new solid waste disposal facility or incinerator or expansion of an existing solid waste disposal facility or incinerator within the region only upon determining that the application is inconsistent with the solid waste management plan adopted by the county or region and approved by the department, and the region shall document in writing the specific grounds on which the application is inconsistent with such plan.

(C) Where a region rejects an application, the commissioner shall not issue the permit unless the commissioner finds that the decision of the region is arbitrary and capricious and unsupported in the record developed before the region.

(D) Appeal of final actions of the region, including any determination under subdivision (b)(2)(B), shall be taken by an aggrieved person within thirty (30) days to the chancery court of Davidson County. The court shall exercise the same review as it would in a case arising under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. For the purposes of this section, an "aggrieved person" is limited to persons applying for permits, persons who own property or live within a three-mile radius of the facility or site that is proposed for permitting, or cities and counties in which the proposed facility is located.

(E) The region shall provide for reasonable public notice of meetings. The region shall be subject to title 10, chapter 7, part 5. The region shall act in accordance with title 8, chapter 44.

(3) If the region has formed a solid waste authority pursuant to part 9 of this chapter, then the authority shall approve any permit applications as provided for in this section instead of the region.

(4) A region or solid waste authority may not impair the obligations of contracts entered into before the date of approval of the region's plan in violation of the article I, § 20 of the Tennessee Constitution.

(5) A region or solid waste authority may not restrict the movement of recovered materials into, out of, or within the region.

(6) Before submitting a plan required by this part, each municipal solid waste region shall hold a public hearing on the proposed plan or revised plan.

68-211-815. Municipal solid waste region plans -- Contents.

(a) Each plan and revised plan submitted by a municipal solid waste region pursuant to this part shall be consistent with the state solid waste plan, with this part, with all other applicable law and with any regulation promulgated by the department.

(b) At a minimum, each plan and revised plan submitted by a municipal solid waste region shall include the following:

(1) Demographic information;

(2) A current system analysis of:

(A) Waste streams, including data concerning types and amounts generated;

(B) Collection capability, including data detailing the different types of collection systems and the populations and areas which receive and do not receive such services;

(C) Disposal capability, including an analysis of the remaining life expectancy of landfills or other disposal facilities;

(D) Costs, using a full-cost accounting model developed by the commissioner, including costs of collection, disposal, maintenance, contracts and other costs; and

(E) Revenues, including cost reimbursement fees, appropriations and other revenue sources;

(3) Adoption of the uniform financial accounting system required by § 68-211-874;

(4) Anticipated growth trends for the next ten-year period;

(5) Anticipated waste capacity needs;

(6) Planned capacity assurance, including descriptions of planned or needed facilities;

(7) A recycling plan, including a description of current public and private recycling efforts and planned efforts to enhance recycling within the county or region;

(8) A plan for the disposal of household hazardous wastes;

(9) Adoption of uniform reporting requirements as required by this part;

(10) A description of waste reduction and recycling activities designed to attain the goal required by § 68-211-861;

(11) A description of education initiatives aimed at businesses, industries, schools, citizens and others, which addresses recycling, waste reduction, collection and other goals of this part;

(12) An evaluation of multi-county solid waste disposal region options with an explanation of the reasons for adopting or failing to adopt a multi-county regional approach;

(13) A timetable for implementation of the plan;

(14) A description of the responsibilities of the various participating jurisdictions;

(15) A certification from the region's title 68, chapter 211, part 9 solid waste authority, if such an authority has been formed, or if no such authority has been formed, the county legislative body of each county in the region that they have reviewed and approved of the region's plan and/or revised plan;

(16) A plan for managing solid waste generated as a result of disasters or emergencies; and

(17) Any other information as the commissioner may deem relevant to the implementation of this part.

68-211-816. Municipal solid waste regions -- Failure to submit adequate plan -- Noncompliance with part -- Sanctions and penalties.

(a) If a municipal solid waste region fails to submit an adequate plan in a timely fashion or if the commissioner does not approve any plan submitted to it, or for any other noncompliance with a provision of this part, then the commissioner shall impose the following sanctions, as appropriate, on the noncompliant county or region:

(1) On the first instance of noncompliance, the commissioner shall issue a letter of warning to the noncompliant county or region indicating the reasons for noncompliance, setting forth the sequence of graduated sanctions for noncompliance and offering technical assistance to remedy the causes of noncompliance.

(2) Any noncompliance shall be resolved as soon as possible. If noncompliance continues for thirty (30) days after receipt of the warning letter, the noncomplying county or region shall lose eligibility for funds from the solid waste management fund, unless the commissioner states in writing that, due to particular circumstances, a longer time is appropriate.

(3) If noncompliance continues for sixty (60) days after receipt of the warning letter, then, in addition to any other penalty imposed by law, the commissioner may impose a civil penalty of not more than five thousand dollars (\$5,000) for each day of noncompliance beyond the sixty-day period.

(b) Any civil penalty shall be assessed in the same manner as provided in § 68-211-117(b). Any penalty collected pursuant to this section shall be deposited in the solid waste management fund.

(c) Any person who violates § 68-211-608, § 68-211-866(a) or § 68-211-867(d) shall be subject to the penalties provided for in § 68-211-117.

68-211-817. Publicly owned landfills or incinerators -- Exclusion of certain solid waste.

A publicly owned landfill or incinerator for disposal of municipal solid waste may exclude solid waste originating outside of the region if such exclusion is consistent with the region's plan submitted pursuant to § 68-211-814.

68-211-818 -- 68-211-820. [Reserved.]

68-211-821. Solid waste management fund -- Funding -- State-wide comprehensive goals for solid waste management programs.

(a) There is established a general fund reserve to be allocated by the general appropriations act which shall be known as the "solid waste management fund." Moneys from the fund may be expended to fund activities authorized by this part. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this part, and shall not revert to the general fund on any June 30. Any excess revenues on interest earned by such revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years. Any appropriation from such reserve shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years. In addition to appropriations of solid waste management funds made by the annual appropriations act, at any time during the fiscal year, the commissioner of environment and conservation, subject to the approval of the commissioner of finance and administration, may use any additional funds available from the solid waste management fund to fund activities authorized by this part.

(b) It is the legislative intent that all appropriations which are required for the implementation of this part and which are in addition to the funds available from the solid waste management fund established by this section shall be funded from appropriations which are otherwise available for solid waste management and related activities as appropriated in the general appropriations act.

(c) The commissioner is directed to develop, with the input and advice of the underground storage tanks and solid waste disposal control board, comprehensive goals for the system of solid waste management programs throughout the state. These goals should address waste avoidance, waste reduction, recycling, composting, and household hazardous waste objectives and should incorporate a strategy of education, technical assistance, and incentives for assuring compliance by all solid waste regions. This program shall be put in place for grants given out after July 1, 2000; provided, that there is sufficient information available on the waste reduction and diversion activities of the counties at that time.

68-211-822. Annual grants to agencies by department -- Guidance for regional needs assessments and development of plans.

From available funds in the solid waste management fund established by § 68-211-821, the

department may award annual grants to the University of Tennessee county technical assistance service, the University of Tennessee municipal technical advisory service, the development districts and the department of economic and community development. Upon receiving such grant funds, these agencies shall render technical assistance to regions, counties and municipalities as needed in the development of the plan required by this part.

68-211-823. Annual plan maintenance grants -- Planning assistance grants.

From available funds in the solid waste management fund established in § 68-211-821, the department shall award:

(1) Annual plan maintenance grants to development districts in order to assist such districts in revising data, maintaining district needs assessments, and assisting counties within the district; and

(2) Planning assistance grants to each county or solid waste region in order to assist such counties or regions in developing, revising and maintaining regional plans required by § 68-211-814.

68-211-824. Matching grant assistance to establish or upgrade convenience centers.

From funds available in the solid waste management fund established by § 68-211-821, the department shall offer matching grant assistance to counties for the purpose of establishing or upgrading convenience centers required by § 68-211-851. Such grant funds may be applied to expenses for land, paving, fencing, shelters for attendants, containers and basic equipment including, but not limited to, balers, crushers, grinders and fencing. Such funds may also be applied to expenditures for developing and printing of operating manuals, but such funds may not be used for regular operating expenses of a recurring nature. The local share of the match shall be determined by the department, using an economic index promulgated by the board based upon factors which include, but are not limited to, per capita income and property values of the county applicant. Counties falling within the lower one half (1/2) of the economic scale on the index shall be eligible for lower matching rates. The board shall promulgate regulations regarding the appropriate index and matching rates.

68-211-825. Matching grant program -- Recycling collection site equipment -- State surcharge on tipping fee -- Rebate.

(a) From funds available from the solid waste management fund established by § 68-211-821, the department shall establish a matching grant program for the purchase of equipment needed to establish or upgrade recycling at a public or not-for-profit recycling collection site. Such equipment may include, but is not limited to, containers, balers, crushers and grinders. No grant shall be awarded for the purchase of mechanical processing equipment to be used at a public or not-for-profit recycling collection site if there is adequate mechanical processing equipment at privately owned facilities which serve the relevant geographical area, unless the grant applicant demonstrates to the department's satisfaction that the mechanical processing equipment is an indispensable component of an otherwise eligible grant project and will not be used to compete

with a privately owned facility. The local share of the match shall be determined by the department, using an economic index based upon factors which include, but are not limited to, per capita income and property values of the jurisdiction to be served. Areas falling within the lower economic scale on the index shall be eligible for lower matching rates. The department shall establish criteria under which applicants for such matching grants will receive preference if their program employs adults with a developmental disability, as defined in § 33-1-101, in such a manner that improves the recycling rate of the city or county and thereby contributes to progress towards meeting or exceeding its solid waste reduction and diversion goal under § 68-211-861.

(b) (1) For the five (5) most populous counties according to the annual estimated census released in April by the United States census bureau, the state shall grant a rebate against the amount due to the state under the state surcharge on the tipping fee imposed by this part. The state shall rebate the amount of a county's credit to the county on an annual basis. The total amount of credits shall not exceed an amount equal to one hundred percent (100%) of the funds allocated for recycling equipment grants and shall be allocated proportionately by population to each county. Municipalities that manage solid waste within the five (5) counties shall be offered a proportionate share of their county's rebate, based on population.

(2) Such rebate shall be in lieu of recycling equipment grants for these five (5) counties. Within a county, the rebate shall be allocated proportionately by population among the municipalities in the county which provide collection or disposal services and the county for the remaining population of the county. A county or municipality may only expend such rebate for recycling purposes and they must expend from local funds an amount equal to the amount of the rebate towards such purposes.

68-211-826. Office of cooperative marketing for recyclables -- Duties.

(a) From funds available from the solid waste management fund established by § 68-211-821, the department of environment and conservation shall establish an office of cooperative marketing for recyclables.

(b) The duties of the office of cooperative marketing for recyclables include:

(1) Preparing and maintaining a directory of regional buyers, which shall include current information on product specifications, markets and price ranges;

(2) Preparing and maintaining a directory of public and private, for profit and nonprofit recycling programs;

(3) Collecting information on the quantity and quality of materials offered for sale by recycling programs;

(4) Assisting counties in contract negotiation;

(5) Creating a data base for and operating an interactive information clearinghouse and marketing service, which shall include pricing information; and

(6) Maintaining an inventory of available quantities, qualities and locations of recyclable materials in Tennessee, and marketing such sites to industries which can utilize available materials.

68-211-827. [Repealed.]

68-211-828. Competitive grants for collection of household hazardous waste.

(a) From funds available from the solid waste management fund, the department shall award competitive grants for collection of household hazardous waste at a permanent site to municipalities with a population of one hundred thousand (100,000) or more in counties with a population of two hundred eighty-seven thousand seven hundred (287,700), or more, according to the 1980 federal census or any subsequent federal census, and to the municipalities or counties that are determined by the department to be the next largest in terms of population or level of participation, or both, in mobile household hazardous waste collection events.

(b) An eligible municipality or county may only receive one (1) grant for the establishment of a permanent household hazardous waste collection site; however, if funds are available from the solid waste management fund, the department may award a municipality or county that has established a permanent household hazardous waste collection site annual grants to assist the municipality or county in maintaining or operating, or both, the permanent household hazardous waste collection site.

(c) A municipality or county that receives a grant pursuant to this section shall allow all residents of the county in which the site is located to use the site on the same basis. The mobile household hazardous waste collection service authorized by § 68-211-829 shall not be provided in a county in which there is a permanent household hazardous waste collection site that was funded through a grant pursuant to this section.

68-211-829. Household hazardous wastes -- Mobile collection units.

From funds available from the solid waste management fund established by § 68-211-821, except as provided in § 68-211-828, the department shall, directly or by contract, provide for the collection of household hazardous wastes on designated days in each county. Each county, or solid waste authority under part 9 of this chapter, if such authority has been created, shall provide a service site and shall advertise in newspapers of general circulation in the county the day or days and hours and location where the household hazardous wastes will be collected. The advertisements shall also identify examples of household hazardous wastes that the mobile unit will receive. The county or solid waste authority shall also furnish at least one (1) person to represent the county or solid waste authority at the service site on the days of collection, who will assist the persons operating the mobile collection unit.

68-211-830. Matching grants for promoting new technologies.

From funds available from the solid waste management fund established by § 68-211-821, the

department may award matching grants to persons to promote the development of new technology for solid waste and recovered materials management, the use of solid waste as a fuel substitute, or innovative solid waste management infrastructure development. Such matching grants shall be made on a competitive basis with appropriate criteria for such competition to be established by the commissioner of environment and conservation. When the recipient is a local government, the local share of the match shall be determined by the department, using an economic index based upon factors which include, but are not limited to, per capita income and property values of the local government. Jurisdictions falling within the lower economic scale on the index shall be eligible for lower matching rates.

68-211-831. Investigation and clean-up of unpermitted waste tire disposal sites and other unpermitted solid waste disposal sites.

From funds available from the solid waste management fund, the department may, directly or by contract, provide for the investigation and clean-up of unpermitted waste tire disposal sites and other unpermitted solid waste disposal sites. The department shall attempt to recover funds expended from the person responsible for the disposal of the waste tires or solid waste pursuant to § 68-211-117.

68-211-832. Grants for investigation and corrective action at landfills causing contamination of ground water.

(a) From funds available in the solid waste management fund, the department may award a grant or grants to any county or municipality that operated a Class I landfill permitted by the department that is now closed and does not have a composite liner system in place, if the department determines that the landfill is causing harm to health or the environment through contamination of ground water.

(b) The grant shall be used by the county or municipality for the purpose of investigation or corrective action at the landfill. The amount of the grant shall be set at an amount sufficient to reimburse a county or municipality for not more than fifty percent (50%) of the total cost of investigation and corrective action of the ground water contamination as of the date of application for the grant.

(c) The underground storage tanks and solid waste disposal control board may promulgate rules it deems necessary or appropriate to effectuate this grant program.

68-211-833. Disposal of hazardous waste in public schools.

Funds available in the solid waste management fund may be used by the department to provide for the proper disposal of hazardous waste or other materials, deemed by the department to pose a hazard to students or the environment, in public kindergarten through grade twelve (K-12) schools.

68-211-834. [Reserved.]

68-211-835. Tipping fee -- Amount -- Collection -- Expenditure of revenues -- Joint ventures -- Surcharges -- Solid waste disposal fees -- Collection -- Penalty for nonpayment - - Use of fee.

(a) Each county, municipality, or solid waste authority which owns a municipal solid waste disposal facility or incinerator may impose a tipping fee upon each ton of municipal solid waste or its volume equivalent received at such solid waste disposal facility or incinerator. Such a tipping fee shall be set by the governing body of the county or municipality, or by the board of directors of the solid waste authority. This tipping fee shall be collected by the operator of the publicly owned municipal solid waste disposal facility or incinerator and remitted to the owner. The fee imposed may be equal to, or a portion of, the estimated cost of providing solid waste management services on a per ton or volume equivalent. Such full cost shall be determined pursuant to the uniform solid waste accounting system developed by the comptroller of the treasury.

(b) Revenue from tipping fees at publicly owned solid waste disposal facilities and incinerators received by counties, municipalities and solid waste authorities shall be expended only for solid waste management purposes.

(c) When a municipal solid waste disposal facility is operated as a joint venture by more than one (1) city or county, or combination thereof, or by an authority, the tipping fee authorized under this section shall be imposed by the joint operators or authority, and the tipping fee received shall be remitted to the participating local governments or authorities for expenditure for solid waste management purposes only.

(d) (1) In addition to any tipping fee imposed by any local government under this section, there shall also be imposed a surcharge of ninety cents (\$0.90) on each ton of municipal solid waste received at all Class I solid waste disposal facilities or incinerators.

(2) The operator of the municipal solid waste disposal facility or incinerator shall collect this surcharge and remit it to the state treasury, except that the operator shall be allowed a deduction of the surcharge due, reported and paid to the department in the amount of one percent (1%) of the amount due on the report. No deduction from the fee shall be allowed if the report or payment of the surcharge is delinquent. Of the funds received from this surcharge, for a period of three (3) years starting July 1, 2009, the state shall credit an amount not to exceed two million six hundred thousand dollars (\$2,600,000) to the general fund annually, if the annual general appropriations act so provides, and the remainder shall be credited to the solid waste management fund. On July 1, 2012, and thereafter, all of the funds received from this surcharge shall be credited to the solid waste management fund.

(e) In order to encourage regional use of solid waste disposal facilities or incinerators, a county that is host to a solid waste disposal facility or incinerator used by other counties in the same region formed pursuant to this part may impose a surcharge on municipal solid waste received at any such solid waste disposal facility or incinerator by resolution of its county legislative bodies in the region. The surcharge shall be imposed on each ton or volume equivalent of municipal solid waste so received. The revenue received by a county from the surcharge authorized by this

subsection (e) shall be expended for solid waste management purposes, or for purposes related to offsetting costs incurred and other impacts resulting from the county being host to the solid waste disposal facility or incinerator. If any municipality in the host county incurs costs as a result of such a municipal solid waste facility or incinerator, then the county shall appropriate funds derived from the surcharge revenue to the municipality which shall be used by the municipality to offset such costs.

(f) (1) In addition to any fee authorized by title 5, and to any tipping fee imposed by any local government under this section, a county, municipality or solid waste authority is authorized to impose:

(A) A surcharge on each ton of municipal solid waste received at a solid waste disposal facility or incinerator for expenditure for solid waste collection, processing, or disposal purposes consistent with this part; and/or

(B) A solid waste disposal fee authorized by subsection (g).

(2) The surcharge authorized to be imposed by a county by subdivision (f)(1)(A) shall not take effect until a regional solid waste plan is approved for such county.

(g) (1) In addition to any power authorized by title 5, a county, municipality or solid waste authority is authorized to impose and collect a solid waste disposal fee. Funds generated from such fees may only be used to establish and maintain solid waste collection and disposal services, including, but not limited to, convenience centers. All residents of the county shall have access to these services. The amount of the fee shall bear a reasonable relationship to the cost of providing the solid waste disposal services. Such fees shall be segregated from the general fund and shall be used only for the purposes for which they were collected.

(2) Subject to any other requirement of law, a county, municipality or solid waste authority may enter into an agreement with an electric utility to collect the solid waste disposal fee as a part of the utility's billing process. The agreement shall be approved by the governing body of the county or municipality entering into the agreement, or, in the case of a solid waste authority, the agreement shall be approved by the authority's board of directors.

(3) A solid waste disposal fee shall not be imposed on any generator of solid waste when the generator's solid waste is managed in a privately owned solid waste disposal system or resource recovery facility owned by the generator.

(4) In any county having a population of not less than nineteen thousand three hundred (19,300) nor more than nineteen thousand six hundred (19,600) or not less than twenty-two thousand two hundred (22,200) nor more than twenty-two thousand five hundred (22,500) or not less than twenty-three thousand three hundred (23,300) nor more than twenty-three thousand four hundred (23,400), according to the 1990 federal census or any subsequent federal census, the solid waste disposal fee authorized by this subsection (g) shall be subject to the same penalty and interest as delinquent property taxes if not paid within thirty (30) days after notice of such fee is mailed. The unpaid fees, penalty, interest and cost shall be a lien on the real estate and

improvements thereon upon filing of a notice with the office of the register of deeds of the county in which the property lies. Such lien shall be in favor of the jurisdiction, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. The notice shall identify the debtor, owner of record of the real property, contain the property address, describe the property sufficiently to identify it and recite the amount of the obligation secured by the lien. No sale or transfer, including, but not limited to, a transfer to an heir-at-law, assignee or legatee of such real property may be legally closed and recorded until the lien has been satisfied. The same shall apply if the property is to be made the subject of a contract of sale. Upon the sale or transfer of the real property, the successor, successors or assigns shall be required to withhold a sufficient amount of the purchase money to cover the amount of the fees, interest, penalty and cost. The jurisdiction may collect the delinquent fees, penalty, interest and cost through an action for debt filed in any court of competent jurisdiction.

(h) (1) As used in this subsection (h), "county" means any county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.

(2) In addition to any power authorized by title 5, a county is authorized to impose and collect a solid waste collection, processing, and disposal fee, referred to in this subsection (h) as the "fee". Funds generated from the fee shall only be used to:

(A) Establish and maintain solid waste collection, processing, and disposal services including, but not limited to, convenience centers;

(B) Establish and maintain material recovery venues and programs; and

(C) Cover costs borne by a county as a consequence of disposal, including the expenses incurred in determining such costs.

(3) All residents of the county imposing the fee shall have access to the services, venues, and programs established and maintained pursuant to subdivisions (h)(2)(A) and (B).

(4) The amount of the fee shall bear a reasonable relationship to the cost of providing the services, venues, and programs established and maintained pursuant to subdivisions (h)(2)(A) and (B). The fee to be imposed by the county shall be set by the county in consultation with and subject to the approval of the underground storage tanks and solid waste disposal control board created in § 68-211-111.

(5) All moneys collected from the fee shall be segregated from the general fund.

68-211-836 -- 68-211-840. [Reserved.]

68-211-841. [Repealed.]

68-211-842. Education program -- Guidelines -- Funding.

(a) The commissioner shall issue guidelines for the education program element of the municipal solid waste region plan. Each solid waste regional plan shall include an education program to assist adults and children to understand solid waste issues, management options and costs, and the value of waste reduction and recycling.

(b) The adult education program shall be funded at a level no less than four percent (4%) of the waste disposal surcharge collected in fiscal year 1996-97; five percent (5%) of the waste disposal surcharge collected in fiscal year 1997-98; and six percent (6%) of the waste disposal surcharge collected in fiscal year 1998-99.

68-211-843. Information clearinghouse -- Regional workshops and conferences.

The commissioner shall establish an information clearinghouse to acquire, review, evaluate and distribute a catalog of materials on source reduction and recycling. The commissioner shall also organize and conduct statewide and regional workshops and conferences on solid waste management, source reduction and recycling.

68-211-844. Educational and training programs.

The commissioner shall collect, prepare and disseminate information and conduct educational and training programs designed to assist in the implementation of solid waste management programs and inform the public of the relationship between an individual's consumption of goods and services and the generation of different types and quantities of solid waste. The commissioner, in consultation with the department of education, shall prepare the information and programs on a statewide basis for the following groups:

- (1) Municipal, county and state officials and employees;
- (2) Kindergarten through graduate students and teachers;
- (3) Businesses that use or could use recycled materials or that produce or could produce projects from recycled materials, and persons who provide support services to those businesses; and
- (4) The general public.

68-211-845. Promotion of education concerning solid waste management.

In order to promote education of children in grades kindergarten through twelve (K-12) concerning solid waste management, source reduction and recycling, the University of Tennessee Waste Management Research and Education Institute, in conjunction with the commissioner of environment and conservation, shall:

- (1) Review, evaluate and publish a list of approved curriculum materials relative to solid waste

management, source reduction and recycling;

(2) Sponsor workshops on the curriculum materials for educators;

(3) Provide in-service training for teachers on solid waste management, recycling and source reduction, environmental protection and conservation of materials; and

(4) Establish peer assistance programs for teachers within a solid waste management region.

68-211-846. Education programs -- Awards.

The commissioner shall establish an awards program for outstanding school-based solid waste, source reduction or recycling education programs.

68-211-847. Matching grants to implement education program.

After a region's plan is approved, the department of environment and conservation may award matching grants for implementing the education program component of the plan from funds available in the solid waste management fund. The local share of the match shall be determined by the department, using an economic index based upon factors which include, but are not limited to, per capita income and property values of the local government. Jurisdictions falling within the lower economic scale on the index shall be eligible for lower matching rates.

68-211-848. Recognition of university and college programs -- Awards program.

The commissioner shall develop an awards program for recognition of university and college programs concerning waste management, source reduction and recycling.

68-211-849. [Obsolete.]

68-211-850. [Reserved.]

68-211-851. Municipal solid waste collection and disposal systems -- Convenience centers -- Technical assistance -- Separate receptacles.

(a) Each county shall assure that one (1) or more municipal solid waste collection and disposal systems are available to meet the needs of the residents of the county. Such systems shall complement and supplement those provided by any municipality. The minimum level of service that the county shall assure is a system consisting of a network of convenience centers throughout the county. Unless a higher level of service, such as household garbage pickup, is available to the residents, a county shall provide directly, by contract, or through a solid waste authority, convenience centers which shall meet minimum design standards to be developed by the department and established by regulation. The department shall also develop regulations to be promulgated by the board for determining the minimum requirements for and number of convenience centers or other forms of collection that a county shall maintain. Such regulations shall consider county population, area, distances to possible convenience center sites, and

staffing requirements.

(b) As part of the local plan required by § 68-211-814, each county or multi-county municipal solid waste disposal region shall submit a plan for the adequate provision of collection services to the department. Such plan shall identify unmet needs and shall be updated annually.

(c) If requested, the University of Tennessee county technical assistance service and municipal technical advisory service shall provide technical assistance to a county or region for siting, designing, constructing, upgrading and developing and maintaining a system of convenience centers which meets the minimum design standards which the department will establish by regulation. The county shall develop an operating manual, and the department shall offer training to operators and attendants.

(d) (1) Not later than July 1, 1997, each county which maintains and uses receptacles for the collection of municipal solid waste from the general public at sites separate from a convenience center for the needs of the residents of the county shall submit the following information to the department:

(A) The number of receptacles in the county;

(B) The location of all receptacles;

(C) Collection times for such receptacles;

(D) Operation procedures and security measures adopted and enforced to maintain and service the receptacles and to ensure the protection of public health and safety; and

(E) Such other information required by the department.

(2) The board created pursuant to § 68-211-111 shall promulgate rules and regulations on the requirements for operation and use of such receptacles as it deems necessary to ensure the protection of public health and safety and to provide for the proper management of solid waste disposed in such receptacles. Any county which does not submit the information required by subdivision (d)(1) or which violates the rules and regulations of the board created pursuant to § 68-211-111 shall not use such receptacles for such purposes.

(3) This subsection (d) shall only apply to counties which had receptacles in use on January 1, 1996. A county which did not have receptacles in use on January 1, 1996, or which subsequent to such date discontinues use of any receptacle permitted under this section, shall be prohibited from installing or maintaining additional receptacles after July 1, 1996.

68-211-852. [Repealed.]

68-211-853. Landfills -- Certification of operators, attendants and participating persons -- Training -- Suspension or revocation of operating license or operator's certification.

(a) By March 19, 1994, or any subsequently designated date for Tenn. Comp. R. & Regs. 1200-01-07-.04(1)(b)(3)(ii) to take effect, the board shall, by rule, establish a program for the certification of operators, attendants and other persons participating in or responsible for the operation of any Class I landfill regulated by the department. The department shall:

(1) Identify those persons or positions involved in the operation of a solid waste disposal facility who are required to obtain certification;

(2) Establish the requirements for and term of initial certification and requirements for recertification upon expiration of that term. At a minimum, the department shall require applicants to complete a program of training and pass an examination in order to receive initial certification;

(3) Establish different levels of certification and requirements for certification for different sizes or types of facilities, as the department determines is appropriate;

(4) Impose fees for the operator or attendant training and certification program; and

(5) Require that there be one (1) or more certified attendants on the site of a Class I landfill at all times during the facility's hours of operation.

(b) The training required under subdivision (a)(2) may be conducted by the department or by another person with the approval of the department.

(c) The department may suspend or revoke the operating license of any landfill regulated by the department if persons at the facility fail to obtain certification required under subdivision (a)(1) or for failure to have a certified operator on the site as required under subdivision (a)(5).

(d) The department may suspend or revoke an operator's certification for failure to comply with this part, rules promulgated under this part or conditions of operation made applicable to a solid waste disposal facility by the department.

68-211-854. Contracting with private entities.

No provision of this part shall prohibit a county, municipality or solid waste authority from contracting with a private individual or entity for the provision of collection or recycling services in a county, municipality or solid waste authority.

68-211-855 -- 68-211-860. [Reserved.]

68-211-861. State waste reduction and diversion goal -- Credit -- Basis for goal -- Sanction for failure to meet goal -- Rule promoting recycling and waste reduction. [For contingent amendment, see the Compiler's Notes.]

(a) The goal of the state is to reduce by twenty-five percent (25%) the amount of solid waste disposed of at Class I municipal solid waste disposal facilities and incinerators, measured on a per capita basis within Tennessee by weight. As an alternative to calculating the waste reduction and diversion goal on a per capita basis, regions shall have the option of calculating the goal on an economic growth basis using the method prescribed by the department and approved by the underground storage tanks and solid waste disposal control board. The goal shall also apply to each municipal solid waste region; provided, that the goal shall not apply to individual disposal facilities or incinerators. The base year from which reductions are to be measured is 1995, unless a region can demonstrate that 1995 data is clearly in error. The method of calculating goals based on economic growth using the method prescribed by the department and approved by the underground storage tanks and solid waste disposal control board shall be promulgated as a rule in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) If a region does not meet the twenty-five percent (25%) waste reduction and diversion goal, then the department will objectively assess the activities and expenditures of the region and the local governments in the region to determine whether the region's program is qualitatively equivalent to other regions that meet the goal and whether the failure is due to factors beyond the control of the region. This qualitative assessment method shall be developed by the department and approved by the underground storage tanks and solid waste disposal control board. The qualitative assessment method prescribed by the department and approved by the underground storage tanks and solid waste disposal control board shall be promulgated as a rule in accordance with the Uniform Administrative Procedures Act.

(c) (1) A county or region may receive credit toward the waste reduction and diversion goal established by this section for documented reductions from recycling and source reduction programs prior to 1995, but no earlier than 1985.

(2) (A) As used in this subdivision (c)(2):

(i) "Aluminum cans" means aluminum beverage cans, aluminum food cans, and aluminum bottles; and

(ii) "Plastic bottles" means recyclable plastic beverage containers that have a neck smaller than the body of the container.

(B) Any region shall be permitted to multiply by three (3) the gross weight of any aluminum cans and plastic bottles that are diverted from Class I municipal solid waste disposal facilities and incinerators located within the geographic area encompassed by the region for purposes of calculating the total percentage waste reduction and diversion that the region has achieved.

(d) The twenty-five percent (25%) goal pertains only to facilities which accept municipal solid waste for disposal or incineration. Measurements of waste are to be based on the amount of

waste entering a disposal facility prior to combustion or landfilling. Measurements of waste disposed of shall not include materials that are recovered or collected for recycling. The department shall issue guidelines concerning, and promulgate by rule, a method for calculating source reduction and recycling.

(e) Failure of the region either to meet the twenty-five percent (25%) waste reduction and diversion goal, or to receive a favorable qualitative assessment of its activities by the department pursuant to subsection (b), may subject the offending counties and municipalities, including any solid waste authority created by such counties and municipalities, to sanctions in the same manner as a region may receive sanctions pursuant to § 68-211-816. In the event the failure of a region to meet its waste reduction and diversion goals is due to the failure of less than all of the constituent counties or municipalities of the region, the commissioner may apply sanctions only to the counties, municipalities or solid waste authorities that have caused the failure.

(f) A county or region has the flexibility to design its own plan and methods which take into account local conditions for attaining the waste reduction and diversion goal set by this section. This plan shall be included as a part of the county or regional plan required by § 68-211-814.

(g) The general assembly recognizes that the ways in which solid waste is generated and managed are very dynamic. The opportunities for recycling and for reduction of waste generated change with both market factors and technological developments. These in turn, affect the costs of solid waste management and recycling. Also, there are many factors that change the feasibility of different approaches among the counties. In addition to population and amount of commercial and industrial activity, these include proximity to markets for recyclable materials and the solid waste activities of municipalities. In order to better address all of these changing circumstances, the underground storage tanks and solid waste disposal control board is authorized to adopt a rule promoting recycling and waste reduction. In so doing, the board shall consider the use of incentives, disincentives, public education, costs and benefits of recycling, and the widely varying circumstances of the different solid waste regions. Upon the effective date of the rule, subsections (a)-(f) shall be repealed and of no further force and effect and the rule shall be enforceable according to its terms and in accordance with § 68-211-816.

68-211-862. Records of origin and amount of solid waste received at transfer stations, disposal facilities, and incinerators -- Exclusion -- Measurement of amount of solid waste received.

(a) The owner or operator of each Class I municipal solid waste disposal facility, incinerator, or transfer station shall be responsible for:

(1) Maintaining an accurate written record of all amounts and county of origin of solid waste, measured in tons, received at the facility; and

(2) Submitting the information required under subdivision (a)(1) to the department.

(b) Measurement in tons of solid waste received shall be accomplished by one (1) or more of the following methods:

(1) The provision of stationary or portable scales at the disposal facility or incinerator or transfer station for weighing incoming waste; or

(2) Implementation of contractual or other arrangements for the use of scales at a location other than the disposal facility, incinerator, or transfer station for weighing all waste destined for disposal at the facility.

68-211-863. Sites for collection of recyclable materials -- Annual reports.

Effective January 1, 1996, each county shall provide directly, by contract or through a solid waste authority, one (1) or more sites for collection of recyclable materials within the county, unless an adequate site for collection of recyclable materials is otherwise available to the residents of the county.

68-211-864. Technical assistance.

The institute for public service of the University of Tennessee shall provide technical assistance in the design and management of a recycling program to each county, municipality, authority or region which requests assistance.

68-211-865. Duties of the department of general services and of the department of environment and conservation.

(a) The department of general services shall:

(1) Recycle surplus state property to the maximum extent practicable, under the program authorized by this part and under § 12-2-404, that cannot be sold for reuse, notwithstanding the existence of any other law, rules or regulations to the contrary;

(2) Revise product specifications to require, to the extent economically feasible, the procurement of recycled products or products with recycled content;

(3) Encourage all departments of state government to purchase products with recycled content or recyclable products from state contracts;

(4) Encourage county governments to purchase materials with recycled content from state contracts in transactions under title 12, chapter 3, part 10; and

(5) Effect procurement contracts that are subject to competitive bidding using specifications revised according to subdivision (a)(2).

(b) The department of environment and conservation shall:

(1) Expand to the maximum extent practicable the department's state recycling program for paper, aluminum cans and bottles;

(2) Expand the department's state recycling program to the maximum extent practicable to include other kinds of recyclable materials, including, but not limited to, newsprint, plastic bottles, mixed paper and steel cans;

(3) Demonstrate new uses of recovered materials; and

(4) Encourage all state facilities to offer recycling opportunities where practicable, including, but not limited to, increasing the availability of recycling receptacles and conducting employee education.

68-211-866. Whole waste tires -- Lead-acid batteries -- Used oil -- When acceptance for disposal prohibited -- Storage sites.

(a) No municipal solid waste disposal facility or incinerator shall accept for disposal any whole waste tires, lead-acid batteries or used oil when an operator or attendant either knew, or should have known, of the presence of such prohibited materials; provided, that, subject to other applicable law and regulations, whole waste tires may be incinerated.

(b) Each county shall provide directly, by contract or through a solid waste authority at least one (1) site to receive and store waste tires, used automotive oils and fluids, and lead-acid batteries, if adequate sites are not otherwise available in the county for the use of the residents of the county. A single site need not receive all of the items for which collection is required by this section, but all items listed above shall have at least one (1) site for reception and storage in the county. The operator of any such sites provided by a county shall sell and/or cause the transfer of the recyclable materials stored at these sites to a commercial recycler or a regional receiving facility for such wastes as often as is practicable.

68-211-867. Waste tire disposal.

(a) The department of environment and conservation is directed to develop a program to manage the waste tire program for beneficial end use.

(b) For the purposes of this section, "beneficial end use" includes the following:

(1) Cement manufacturing;

(2) Burning of tire-derived fuel in contained industrial boilers for the capture of energy;

(3) Production of tire-derived fuel, provided the department approves the planned use of the processed tire material;

(4) The crumbling or pyrolysis of tire material, provided the processor provides for the planned use of the processed tire material under such requirements established by the department;

(5) Recreational applications, including, but not limited to, playgrounds, running tracks, and

walking paths; or

(6) Any use otherwise deemed appropriate by the department of environment and conservation and for which either the board has promulgated rules or the department has developed and published policies; provided, that this section shall not be construed to require or mandate the use of products or materials resulting from waste tires. The board shall not promulgate any rules, and the department shall not establish any policies mandating the use of products or materials resulting from waste tires. It is the specific intent of the general assembly that any use of products resulting from the waste tire program is entirely voluntary on the part of the end user.

(c) (1) The department is authorized to use funds available from the solid waste management fund to contract directly with an approved beneficial end user or its designated agent for recycling of waste tires. Each beneficial end user or agent awarded such a contract shall demonstrate to the department's satisfaction the ability to provide collection, management and transportation to its facility of all eligible and available waste tires generated within the area or county specified by the department. Any such contract shall be subject to approval by the county legislative body of each county in whose territory the contract shall be operative. Any such contract shall also require an appropriate performance bond from any entity producing tire-derived fuel or crumbling or pyrolysis of tire material to ensure proper storage, transportation and ultimate sale or disposal of such materials.

(2) From funds available from the solid waste management fund, the department may provide grants to assist counties in locating, collecting and appropriately disposing of waste tires. Any county receiving a grant under this subdivision (c)(2) after July 1, 2000, shall not assess a tipping fee on the waste tires received at a county waste tire collection site so long as the amount of the grant covers the cost of the county's waste tire management program.

(3) From funds available from the solid waste management fund, the department may provide grants to local education agencies, municipalities or counties to utilize recycled shredded tires for recreational applications.

(4) Any county or entity requesting or applying for a grant or entering a contract with the department shall submit, prior to being approved for a grant or contract, a workplan and budget to reflect the expenditures of the grant or contract. The grants or contracts are to fulfill the objective of recycling waste tires and to assure that all expenditures of the contracts, grants, or any additional local tipping fees are not exceeding the cost of the county's waste tire management program.

(d) (1) A landfill shall not accept whole, unshredded waste tires for disposal. Landfill operators shall segregate whole, unshredded waste tires at landfills and provide a temporary storage area for such tires until transported to an appropriate facility to be used for an approved beneficial end use as defined in this section, or the tires are shredded and disposed of pursuant to subdivision (d)(2) and regulations promulgated by the board.

(2) A county may not dispose of shredded waste tires in a landfill after July 1, 2002, if the county's net cost for shredding, transporting and disposing of waste tires exceeds the cost of an

available beneficial end use. Nothing in this subsection (d) shall prohibit a county from electing to participate in a beneficial end use for waste tires at a cost that exceeds the county's net cost for shredding, transporting and disposing of waste tires in a landfill.

68-211-868 -- 68-211-870. [Reserved.]

68-211-871. Annual report -- Contents -- Annual progress report -- Sanctions for noncompliance -- Annual reports by recovered materials facilities.

(a) The department shall make available on its web site, by January 1 of each year, the forms and information to be used by the regions to file an annual progress report. Each region shall submit the annual report to the commissioner by March 31 for the immediately preceding calendar year, in a format to be determined by the commissioner, which will include data on the following:

- (1) Collection;
- (2) Recycling;
- (3) Transportation;
- (4) Disposal;
- (5) Public costs; and

(6) Any other information that the board, by rule, deems relevant to solid waste planning and management.

(b) After approval of the plan required by § 68-211-814, the commissioner shall require that a region submit an annual progress report on implementation of such plan in conjunction with the annual report required by this section.

(c) The region may require each person actively and regularly engaged in the collection, transportation and disposal of municipal solid waste, or the recovery or recycling of materials, in the county or counties constituting the region to provide any information necessary for the region to comply with the reporting requirements of this section.

(d) The region may bring an action for mandatory injunction in the chancery court against any person failing to properly report in accordance with this section in order to compel compliance. The region shall be entitled to recover all costs and attorney's fees from any person failing to comply with the reporting requirements of this section.

(e) Any person operating a recovered materials processing facility shall report annually the quantities of recovered materials processed at that facility, by type of material, directly to the department or its designee, in a manner approved by the department. The department may enter into agreements with private recycling organizations to facilitate the gathering of such

information. Such information shall be treated as proprietary information but may be compiled and reported in cumulative statewide totals, by type of recovered material. Such information may not be released to the public in such a manner as to identify it with an individual recovered materials processing facility. A recovered materials processing facility which fully complies with the reporting requirements of this subsection (e) shall not be subject to the reporting requirements of subsection (c), for information solely related to the operation of the recovered materials processing facility.

68-211-872. Solid waste planning and management data base.

(a) The commissioner shall establish and maintain a statewide solid waste planning and management data base which can aggregate and analyze county reports on waste generation, collection, recycling, transportation, disposal and costs.

(b) The department may provide guidelines and best practices for composting and recycling to regional board members, advisory committees, and Class I, Class III, and Class IV landfill owners and operators.

68-211-873. Annual report to governor and general assembly.

(a) The department shall prepare an annual report to the governor and general assembly on the state's solid waste management system.

(b) The report required by subsection (a) shall include progress implementation updates, including projected implementation steps, on each specific component of the state's comprehensive solid waste management plan, as listed in § 68-211-603.

68-211-874. Accounting for financial activities -- Funds -- Uniform solid waste financial accounting system -- Development -- Approval -- Requirement for state funds.

(a) Each county, solid waste authority and municipality shall account for financial activities related to the management of solid waste in accordance with generally accepted accounting principles (GAAP). The activities related to the management of solid waste must be accounted for in either a special revenue or enterprise fund, unless explicitly prohibited by GAAP. Where GAAP prohibits the use of a special revenue or enterprise fund, the solid waste financial activities may be individually accounted for in the general fund, as a separate department, program or function and sufficient detail shall be reported in the annual financial report to identify all applicable revenues and expenditures related to the management of solid waste. Any county, solid waste authority or municipality that operates a landfill and/or incinerator shall account for financial activities related specifically to that landfill and/or incinerator in an enterprise fund. Each county, solid waste authority and municipality shall use a uniform solid waste financial accounting system and chart of accounts developed by the comptroller of the treasury.

(b) The comptroller of the treasury is directed to develop a uniform financial accounting system conforming to generally accepted accounting principles for use as required by this section.

(c) Such uniform accounting system shall be subject to the approval of the commissioner of finance and administration. Upon such approval, each county shall establish and maintain the uniform solid waste financial accounting system.

(d) No state funds for solid waste management shall be released to a county, solid waste authority or municipality unless financial activities related to the management of solid waste are accounted for in accordance with GAAP. The activities related to the management of solid waste must be accounted for in either a special revenue or enterprise fund unless explicitly prohibited by GAAP. Where GAAP prohibits the use of a special revenue or enterprise fund, the solid waste financial activities may be individually accounted for in the general fund as a separate department, program or function and sufficient detail shall be reported in the annual financial report to identify all applicable revenues and expenditures related to the management of solid waste. No state funds for solid waste management shall be released to a county, solid waste authority or municipality that operates a landfill and/or incinerator unless financial activities related to that landfill and/or incinerator are accounted for in an enterprise fund.