

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
Rule No. 335-3-19-.01
Rule Title: Definitions

 New X Amend Repeal Adopt by Reference

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

 YES

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

 YES

Is there another, less restrictive method of regulation available that could adequately protect the public?

 NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

 YES

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

 NO

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

 YES

Does the proposed rule have an economic impact?

 YES

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

Certification of Authorized Official

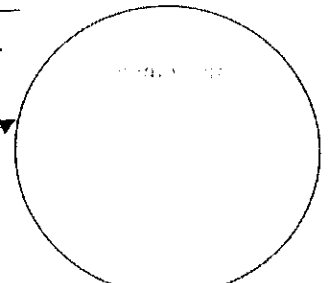
I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer

Mandy Elliott

Date 01-20-17

Date Filed



APA-2
11/96

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

RULE NO. & TITLE: 335-3-19-.01 Definitions (Amend)
335-3-19-.02 General Provisions (Amend)
335-3-19-.03 Standards for Existing Municipal Solid Waste Landfills (Amend)
335-3-19-.04 Compliance Schedules (Amend)
335-3-19-.05 Petition for Alternative Standards and Compliance Schedules

INTENDED ACTION: Revise Division 3 of the ADEM Administrative Code with the amendment of Rules 335-3-19-.01 (Definitions), 335-3-19-.02 (General Provisions), 335-3-19-.03 (Standards for Existing Municipal Solid Waste Landfills), 335-3-19-.04 (Compliance Schedules), and 335-3-19-.05 (Petition for Alternative Standards and Compliance Schedules).

SUBSTANCE OF PROPOSED ACTION:

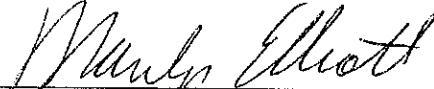
Revisions to the Division 3 Code are being proposed to amend Rules 335-3-19-.01, 335-3-19-.02, 335-3-19-.03, and 335-3-19-.04 in Chapter 335-3-19 in order to incorporate amendments to EPA's emission standards for Existing Municipal Solid Waste Landfills (MSWLFs). An existing MSWLF is a landfill for which construction, modification, or reconstruction commenced on or before July 17, 2014. The designated facilities in which the amendments apply has accepted waste since November 8, 1987.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held 10:00 a.m., March 8, 2017, in ADEM Hearing Room, 1400 Coliseum Blvd., Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: March 10, 2017

CONTACT PERSON AT AGENCY: Larry Brown (334) 271-7878



Lance R. LeFleur
Director

335-3-19-.01 Definitions. For the purposes of this Chapter and Rules-rules 335-3-10-.02(75) and 335-3-10-.02(76) only, the following words and phrases, unless a different meaning is plainly required by the content, shall have the following meanings.

(a) "Active collection system" means a gas collection system that uses gas mover equipment.

(b) "Active landfill" means a landfill in which solid waste is being placed or a landfill that is planned to accept waste in the future.

(c) "Closed area" means a separately lined area of an MSW landfill in which solid waste is no longer being placed. If additional solid waste is placed in that area of the landfill, that landfill area is no longer closed. The area shall be separately lined to ensure that the landfill gas does not migrate between open and closed areas.

(ed) "Closed landfill" means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under §60.7(a)(4), 40 CFR. Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.

(e) "Closed landfill subcategory" means a closed landfill that has submitted a closure report as specified in rule 335-3-19-.03(6)(e) on or before September 27, 2017.

(df) "Closure" means that point in time when a landfill becomes a closed landfill.

(eg) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

(fh) "Controlled landfill" means any landfill at which collection and control systems are required under this Chapter as a result of the nonmethane organic compounds emission rate. The landfill is considered controlled at the time a collection and control system design plan is submitted in compliance with Rule rule 335-3-19-.03(1)(bd)2.(i).

(i) "Corrective action analysis" means a description of all reasonable interim and long-term measures, if any, that are available, and an explanation of why the selected corrective action(s) is/are the best alternative(s), including, but not limited to, considerations of cost effectiveness, technical feasibility, safety, and secondary impacts.

(gj) "Design capacity" means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent permit issued by the Department, plus any in-place waste not accounted for in the most recent permit. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site specific density, which must be recalculated annually.

(k) "Disposal facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

(hl) "Emission rate cutoff" means the threshold annual emission rate to which a landfill compares its estimated emission rate to determine if control under the regulation is required.

(im) "Enclosed combustor" means an enclosed firebox which maintains a relatively constant limited peak temperature generally using a limited supply of combustion air. An enclosed flare is considered an enclosed combustor.

(jn) "Flare" means an open combustor without enclosure or shroud.

(ko) "Gas mover equipment" means the equipment (i.e., fan, blower, compressor) used to transport landfill gas through the header system.

(p) "Gust" means the highest instantaneous wind speed that occurs over a 3-second running average.

(lq) "Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). Household waste does not include fully segregated yard waste. Segregated yard waste means vegetative matter resulting exclusively from the cutting of grass, the pruning and/or removal of bushes, shrubs, and trees, the weeding of gardens, and other landscaping maintenance activities. Household waste does not include construction, renovation, or demolition wastes, even if originating from a household. ~~any solid waste including garbage and trash derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).~~

(mr) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include fly ash waste,

bottom ash waste, boiler slag waste, or flue gas emission control waste which result from the combustion of coal or other fossil fuels at electric or steam generating plants. Additionally, this term does not include mining waste or oil and gas wastes, or small quantity generator waste as defined in ADEM Admin. Code R. 335-14-2-.01(5). Uncontaminated concrete, soil, brick, rock, and similar materials are excluded from this definition.

(ns) "Interior Well" means any well or similar collection component located inside the perimeter of the landfill waste. A perimeter well located outside the landfilled waste is not an interior well.

(ot) "Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile as those terms are defined under ADEM Admin. Code R. 335-13-1-.03.

(pu) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing MSW landfill. A lateral expansion is not a modification unless it results in an increase in the design capacity of the landfill.

(v) "Leachate recirculation" means the practice of taking the leachate collected from the landfill and reapplying it to the landfill by any of one of a variety of methods, including pre-wetting of the waste, direct discharge into the working face, spraying, infiltration ponds, vertical injection wells, horizontal gravity distribution systems, and pressure distribution systems.

(qw) "Modification" means an increase in the permitted volume design capacity of the landfill by either ~~horizontal-lateral~~ or vertical expansion based on its design capacity as of ~~May 30, 1991~~ July 17, 2014. Modification does not occur until the owner or operator commences construction on the ~~horizontal-lateral~~ or vertical expansion.

(rx) "Municipal solid waste landfill" or "MSW landfill" means an entire disposal facility in a contiguous geographic space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA Subtitle D wastes (ADEM Admin. Code R. 335-13-1-.03) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned. An MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

(sy) "Municipal solid waste landfill emissions" or "MSW landfill emissions" means gas generated by the decomposition of organic waste deposited in an MSW landfill or derived from the evolution of organic compounds in the waste.

(tz) "NMOC" means nonmethane organic compounds, as measured according to the provisions of ~~Rule~~ rule 335-3-19-.03(3).

(~~aaa~~) "Nondegradable waste" means any waste that does not decompose through chemical breakdown or microbiological activity. Examples are, but are not limited to, concrete, municipal waste combustor ash, and metals.

(vbb) "Passive collection system" means a gas collection system that solely uses positive pressure within the landfill to move the gas rather than using gas mover equipment.

(cc) "Root cause analysis" means an assessment conducted through a process of investigation to determine the primary cause, and any other contributing causes, of positive pressure at a wellhead.

(wcd) "Sludge" means any nonhazardous solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

(xcc) "Solid waste" means any garbage or rubbish, construction/demolition debris, ash, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities or materials intended for or capable of recycling, but which have not been diverted or removed from the solid waste stream. The term "solid waste" does not include recovered material, solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to National Pollutant Discharge permits under the Federal Water Pollution Control Act 33 U.S.C. 1342, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.). Also excluded from this definition are wastes from silvicultural operations, land application of crop residues, animal residues, animal manure and ash resulting exclusively from the combustion of fossil fuels or wood during normal agricultural operations or mining refuse as defined and regulated pursuant to the Alabama Mining Act.

(yff) "Sufficient density" means any number, spacing, and combination of collection system components, including vertical wells, horizontal collectors, and surface collectors, necessary to maintain emission and migration control as determined by measures of performance set forth in this Chapter.

(zgg) "Sufficient extraction rate" means a rate sufficient to maintain a negative pressure at all wellheads in the collection system without causing air infiltration, including any wellheads connected to the system as a result of expansion or excess surface emissions, for the life of the blower.

(hh) "Treated landfill gas" means landfill gas processed in a treatment system as defined in this rule.

(ii) "Treatment system" means a system that filters, de-waters, and compresses landfill gas for sale or beneficial use.

(jj) "Untreated landfill gas" means any landfill gas that is not treated landfill gas.

Author: Ronald W. Gore

Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.

History: Effective Date: January 15, 1998.

Amended: January 13, 2000-;XXXXXX, 2017.

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23 (f))**

Control No. 335 Department or Agency Environmental Management

Rule No: 335-3-19-.01; 335-3-19-.02; 335-3-19-.03; 335-3-19-.04

Rule Title: Definitions; General Provisions; Standards for Existing Municipal Solid Waste Landfills; Compliance Schedules

 New X Amend Repeal Adopt by Reference

 This rule has no economic impact.

 X These rules have an economic impact, as explained below:

Impact of Revisions to Chapter 335-3-19

Rules 335-3-19-.01, 335-3-19-.02, 335-3-19-.03, and 335-3-19-.04 of the ADEM Administrative Code will incorporate the federal emission guidelines for the Control of Landfill Gas Emissions at Existing Municipal Solid Waste Landfills. Through this adoption, the Alabama Department of Environmental Management is given primacy to enforce these regulations at the state level. In the event that these regulations are not adopted and implemented by the state, the EPA will implement the requirements on the federal level.

The Federal Register which requires the state to adopt these rules is submitted as an attachment to this package.

1. NEED/EXPECTED BENEFIT OF RULE:

The adoption of these revisions to Chapter 335-3-19 by the State of Alabama will allow the regulations to be implemented and enforced by the Alabama Department of Environment Management. As discussed above, adoption of these regulations will allow the Department to retain State primacy of the federal program.

2. COST/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

There will be no additional cost incurred by the residents of or companies operating in the

State of Alabama if the revisions to the federal regulations are incorporated and adopted by the State. The costs are equivalent to the cost of compliance with the same regulations implemented by the federal government. Sources of air pollution will be subject to the same requirements for the installation of controls to prevent the emission of air pollution regardless of which agency (state or federal) implements these regulations.

3. EFFECT OF THIS RULE ON COMPETITION:

Adoption of these federally required regulations is not expected to have any effect on competition. As stated above, if the regulations are not adopted by the state of Alabama, they will be implemented on the federal level and Alabama companies will be required to comply with the federal regulations and answer directly to the federal Environmental Protection Agency.

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

Adoption of these federally required regulations is not expected to have any effect on the cost of living and doing business in the geographical area of implementation (State of Alabama). As stated above, if the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Therefore, Alabama companies still would be required to comply with the federal regulations and answer directly to the federal Environmental Protection Agency.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

Adoption of these federally required regulations is not expected to have any effect on the employment in the geographical area in which the regulation would be implemented (State of Alabama).

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Moneys from the Federal Grant, fines and fees collected by the Department will fund the adoption of this regulation. For sources subject to Title V of the Clean Air Act, as amended, fees are collected based on the amount of air pollution emitted annually.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

The adoption of the proposed regulation is not expected to have any short-term or long-

term economic impact. As stated above, if the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Alabama companies would still be required to comply with the federal regulations and answer directly to the federal Environmental Protection Agency.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

No additional burdens are expected as a result of the adoption of these regulations. If the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Alabama companies would still be required to comply with the federal regulations and answer directly to the federal Environmental Protection Agency.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

The effect of the regulation on the environment and public health is addressed in the accompanying Federal Registers.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

The benefits of the proposed regulations have been discussed in the above paragraphs as well as the Federal Register. Alabama is required to adopt these regulations by the EPA in order to continue to have primacy in implementing an air pollution control program. In the event that the regulations are not adopted at the State level, the requirements will still exist at the federal level. However, it is generally acknowledged that regulations are implemented and enforced in a more effective and efficient manner at the State level than at the federal level.