

APA-1
11/96

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-3-19-.02
Rule Title: General Provisions

 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.

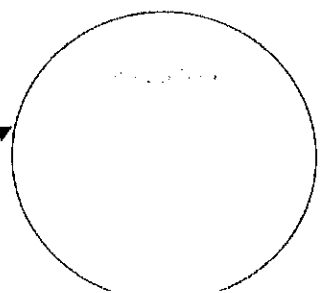
Certification of Authorized Official

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 *Mindy 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:

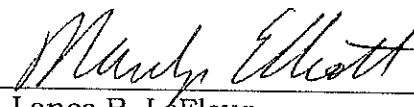
Revisions to the Division 3 Code are being proposed to amend Rules 335-3-19-.01, 335-3-19-.02, 335-3-19-.03, and 335-3-19-.04 in Chapter 335-3-19 in order to incorporate amendments to EPA's emission standards for Existing Municipal Solid Waste Landfills (MSWLFs). An existing MSWLF is a landfill for which 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-.02 General Provisions.

(1) The provisions of this Chapter apply to each existing MSW landfill for which construction, reconstruction or modification was commenced on or before May 30, 1991/July 17, 2014. Physical or operational changes made to an existing MSW landfill solely to comply with this Chapter are not considered a modification or reconstruction and would not subject an existing MSW landfill to the requirements of Subpart ~~WWW-XXX~~ as incorporated by reference in ~~Rule-rule 335-3-10-.02(7576)~~, [see §60.750-760 of Subpart ~~WWWXXX~~, 40 CFR].

(2) Collection and Control of MSW landfill emissions shall be required at each MSW landfill meeting the following three conditions:

(a) The landfill has accepted municipal solid waste at any time since November 8, 1987; or has additional design capacity available for future waste deposition.

(b) The landfill has a design capacity greater than or equal to 2.5 million megagrams by mass and 2.5 million cubic meters by volume. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the design capacity report; and

(c) The landfill has a nonmethane organic compound emission rate of ~~50 megagrams per year or more~~ greater than or equal to 34 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(d) The landfill in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(3) For purposes of obtaining an operating permit under Chapter 335-3-16 of this Division, the owner or operator of a MSW landfill subject to this Chapter with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under Chapter 335-3-16, unless the landfill is otherwise subject to Chapter 335-3-16. For purposes of submitting a timely application for an operating permit, the owner or operator of a MSW landfill subject to this Chapter with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters on the effective date of EPA's approval of the state's program [December 7, 1998], and not otherwise subject to Chapter 335-3-16, becomes subject to the requirements of Chapter 335-3-16, 90 days after the effective date [March 7, 1999] of said program approval, even if the design capacity report is submitted earlier.

(4) When a MSW landfill subject to this Chapter is closed as defined in this rule, the owner or operator is no longer subject to the requirement to maintain an operating permit under Chapter 335-3-16 for the landfill if the landfill is not otherwise subject to the requirements of Chapter 335-3-16 and if either of the following conditions are met.

(a) The landfill was never subject to the requirement to install and operate a gas collection and for-a-control system under Rule-rule 335-3-19-.03; or

(b) The owner or operator meets the condition for control system removal specified in Rule-rule 335-3-19-.03(1)(b)2-(v)(e).

(5) When an MSW landfill subject to this rule is in the closed landfill subcategory, the owner or operator is not subject to the following reports of this rule, provided the owner or operator submitted these reports under the provisions of Subpart WWW as incorporated by reference in rule 335-3-10-.02(75); or under the provisions of this rule on or before July 17, 2014;

(a) Initial design capacity report specified in subparagraph 335-3-19-.03(6)(a) of this rule.

(b) Initial or subsequent NMOC emission rate report specified in subparagraph 335-3-19-.03(6)(b) of this rule, provided that the most recent NMOC emission rate report indicated the NMOC emissions were below 50 Mg/yr.

(c) Collection and control system design plan specified in subparagraph 335-3-19-.03(6)(c) of this rule.

(d) Closure report specified in subparagraph 335-3-19-.03(6)(e) of this rule.

(e) Equipment removal report specified in subparagraph 335-3-19-.03(6)(f) of this rule.

(f) Initial annual report specified in subparagraph 335-3-19-.03(6)(g) of this rule.

(g) initial performance test report in subparagraph 335-3-19-.03(6)(h) of this rule.

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.