

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
Rule No. 335-3-19-.05
Rule Title: Petition for Alternative Standards and Compliance Schedules

 New X Amend Repeal Adopt by Reference

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

 NO

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?

 NO

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?

 NO

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.

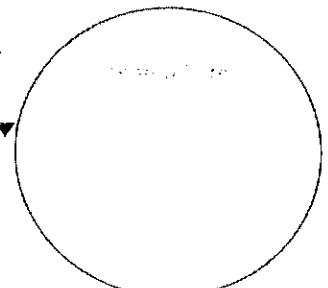
Certification of Authorized Official

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-.05 Petition for Alternative Standards and Compliance Schedules.

(1) A MSW landfill owner or operator may request through petition, alternative emission standards or a longer compliance schedule that is/are not specified in this Chapter through the following procedures.

(a) Petition Requirements. To enable the Department to rule on the Petition, the following information, where determined applicable by the Department, shall be included in the petition:

1. A clear and complete statement of the precise extent of the relief sought including specific identification of the particular provisions of the regulations from which the relief is sought. The criteria for relief include:

(i) Unreasonable cost of control resulting from landfill age, location, or basic design:

(ii) Physical impossibility of installing necessary control equipment; or

(iii) Other factors specific to the landfill that make application of a less stringent standard or final compliance time significantly more reasonable.

(2) An assessment, with supporting factual information, of the impact that the petition will impose on the public health and the environment in the affected area.

(3) Any additional information requested by the Department as necessary to evaluate the petition.

(4) A concise factual statement of the reasons the petitioner believes that alternative emission limits or a longer compliance schedule will not threaten the public health or unreasonably create environmental pollution.

(b) Extension of Prior or Existing Alternative Emission Standards or Compliance Schedule. A petition to extend a prior or existing petition granted by the Department shall be commenced by filing a new petition with the Department in accordance with the requirements of paragraph (1) of this ~~Rule~~rule. To the extent that the information required by paragraph (1) of this ~~Rule~~rule has been included in the prior petition for which extension is sought, a submission of that information shall not be required provided that the petition shall request the incorporation of the record, opinion and order in the prior proceeding into the new petition.

(c) Department Actions on Petitions. On receipt of a petition, the Department will authorize one of the following actions, as they shall determine:

1. The petition may be dismissed if the Department determines that it is not adequate under paragraph (1) of this ~~Rule~~rule.

2. The Department may grant the request of the petition, as petitioned or by imposing such conditions as this Division may require in the Major Source Operating Permit, including the establishment of schedules of compliance and

monitoring requirements, if EPA consents to the alternative emission standards or compliance schedule as submitted to EPA by the Department.

3. The Department may deny the petition. If such a denial is made, the Department shall notify the petitioner in writing, state the reasons for denial and outline procedures for appeal.

(d) Termination Procedures.

Any petition granted by the Department may be terminated by the Department whenever the Department finds, after an opportunity for the petitioner to demonstrate compliance and after notice and an opportunity for hearing, that the petitioner is in violation of any requirement, condition, schedule, limitation or any other provision of the petition or that operation under the petition does not meet the minimum requirements established by state and federal laws and regulations or is unreasonably threatening the public health.

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: September 7, 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.