

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management
Rule No. 335-13-1-.13
Rule Title: Unauthorized Dumps

 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? 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 Marilyn Elliott

Date October 20, 2017



APA-2
11/96

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE:

335-13-1-.03 Definitions (Amend)
335-13-1-.05 Communications (Amend)
335-13-1-.08 Severability (Amend)
335-13-1-.13 Unauthorized Dumps (Amend)

INTENDED ACTION: Revise Division 13 of the ADEM Administrative Code.

SUBSTANCE OR PROPOSED ACTION:

Revisions to the Division 13 are being proposed to amend the solid waste permitting application regulations to incorporate a statutory change to the Code of Alabama to update the local host governmental approval process.

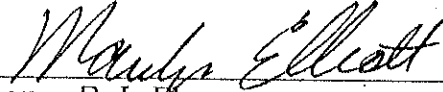
Additionally, the definition of "municipal solid waste landfill unit" is proposed to be amended in accordance with EPA's Hazardous Waste Generator Improvements Rule (81 FR 85805, November 28, 2016).

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held Wednesday, December 6, 2017 at 10:30 AM in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: December 6, 2017

CONTACT PERSON AT AGENCY: Eric L. Sanderson, Chief of the Solid Waste
Branch, ADEM Land Division (334/271-7755)

A handwritten signature in cursive script, appearing to read "Lance R. Lefleur", written over a horizontal line.

Lance R. Lefleur
Director

335-13-1-.13 Unauthorized Dumps.

(1) Prohibition.

(a) Unauthorized dumps are prohibited by this Division, and are a violation of the Act.

(b) Unpermitted solid waste landfill units failing to satisfy the Division 13 regulations constitute unauthorized dumps, which are prohibited, and must be closed in accordance with rRule 335-13-1-.13(2) or rRule 335-13-4-.20.

(2) Closure. An agency or person discontinuing the use of an unauthorized dump, whether on his own initiative or at the direction of the Department, shall take one of the following actions as determined to be necessary by the Department:

(a) Remove all the solid waste from the site and place in an approved landfill unit, a registered recycling facility or an otherwise appropriate beneficial reuse in accordance with a clean-up, site restoration and monitoring plan, as approved by the Department. In accordance with ADEM Administrative Code, Division 6, Volume 1, Water Quality Program, the Department may also require monitoring of the site for unpermitted discharges to waters of the state as defined by the Alabama Water Pollution Control Act and other sources as may be necessary to protect public health and the environment; or,

(b) Undertake closure of the unauthorized dump subject to any or all of the following actions as determined necessary by the Department:

1. Prepare and submit a site closure plan, subject to approval by the Department.

2. Barricade and secure entrance.

3. Implement effective rodent or vector controls, including baiting for at least two weeks after closing, to prevent rodent migration to adjacent properties and spraying of containers to control mosquitoes, or other measures as determined necessary by the Department.

4. Compact and cover existing solid waste. Final cover for the entire area shall be two feet or more of compacted earth or as otherwise determined by the Department. Earth cover shall be of a quality to be easily managed and with sufficient clay content to provide an adequate seal on the waste. The uppermost 6" of cover shall support an adequate stand of vegetation.

5. The establishment of a vegetative or some other appropriate cover to minimize erosion and, when applicable, maximize evapotranspiration shall be established. Within 30 days after completion of final grading, the owner or operator of the dump shall prepare the final cover for the establishment of a vegetative or approved alternative cover. For the establishment of a vegetative cover, such preparation shall include, but not be limited to:

- and
- (i.) Placement of appropriate species of grass seed, fertilizer and mulch;
 - (ii.) Watering and maintenance necessary such that germination can reasonably be anticipated.

6. Implement and maintain erosion control measures by grading and re-establishing vegetative cover as needed or determined necessary.

7. Post signs indicating the dump site closure and location of the nearest approved disposal site when deemed necessary by the Department.

8. Based on site geology, hydrology or waste types, the Department may require additional measures, which may include but shall not be limited to, groundwater monitoring.

9. For all unauthorized dumps closed in accordance with the requirements of rRule 335-13-1-.13(2)(b), the landowner shall enter into an Environmental Covenant in accordance with ADEM Administrative Code, Division 5, Uniform Environmental Covenants Program. e

(c) If all solid wastes are removed from the site according to subparagraph (a) of this rRule, the environmental covenant in subparagraph (b)89 of this rRule will not be required.

Author: Russell A. Kelly; Phillip D. Davis; S. Scott Story.

Statutory Authority: Code of Alabama 1975, §§ 22-27-4, 22-27-7, 22-27-10, 22-27-11, and 22-27-12.

History: November 18, 1981.

Amended: July 21, 1988; October 2, 1990; November 2, 1993; July 26, 1996; August 3, 2010; XXXXX, 2018-