

APA-1  
07/04

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management  
Rule No. 335-13-5-.08  
Rule Title: Vertical Expansion

         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

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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.

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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:

335-13-5-.02 Permit Application (Amend)  
335-13-5-.03 Public Notice (Amend)  
335-13-5-.04 Public Hearing (Amend)  
335-13-5-.05 Permit Denial, Suspension or Revocation (Amend)  
335-13-5-.06 Permit Modification (Amend)  
335-13-5-.08 Vertical Expansion (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.

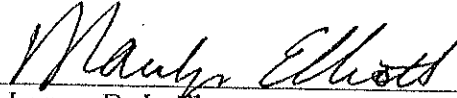
Additionally, the definition of "municipal solid waste landfill unit" is proposed to be amended in accordance with EPA's Hazardous Waste Generator Improvements Rule (81 FR 85805, November 28, 2016).

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

**335-13-5-.08 Vertical Expansion.**

(1) Applicability. Existing MSWLF units may continue to operate past October 8, 1993, or the effective date of § 258.1 of 40 CFR 258, Solid Waste Disposal Criteria, whichever is later, provided that an adequate application request is submitted and approval is granted by the Department.

(2) Application Requests. A vertical expansion application request must be submitted to the Department. The application, at a minimum, shall include the following:

(a) An assessment of the existing groundwater data and groundwater monitoring system. The assessment shall include:

1. Submittals of past groundwater data and conclusions as to whether or not the groundwater has been impacted by the landfill.

2. Monitoring well data such as: well logs, total well depth, screen depth, depth to water level (MSL), indication/documentation of upgradient or downgradient well location, numbering sequence, etc. and conclusions as to whether or not the groundwater monitoring system is adequate.

(b) A plat or engineering drawing, designating the active footprint; i.e., area where waste has previously been disposed and has not reached final closure elevations. Areas that have the final closure cap in place will not be considered active areas.

(3) Approval Criteria. In determining whether to approve or deny the vertical expansion request, the Department shall consider the following criteria:

(a) If the groundwater analysis indicates no significant impact to the groundwater, the MSWLF will be allowed to fill vertically over the active footprint, according to their approved plans, until final closure elevations are reached, provided the active footprint is over a lined area with a leachate collection system. If the approved active footprint is over an unlined area, the MSWLF may not ~~operate~~ expand vertically past October 8, 1997.

(b) If the groundwater analysis indicates an increase over the background data (initial sampling data), and no sampling data has exceeded primary drinking water standards, unlined MSWLFs will be allowed to expand vertically until October 8, 1995 and MSWLFs operating over liners and leachate collection systems may operate according to the approved plans until final closure elevations are reached.

(c) If the groundwater analysis indicates an increase over the background data and exceeds the primary drinking water standards, the MSWLF must perform a groundwater assessment. After Departmental review of the groundwater assessment, a remediation plan (if required) must be submitted to and approved by the Department prior to October 9, 1993, or the effective date of § 258.1 of 40 CFR 258, Solid Waste Disposal Criteria, whichever is later. If a remediation plan is approved by ADEM and

implemented by the MSWLF unit, the facility may expand vertically until October 8, 1995.

(d) The active footprint shall be determined by the Department.

**Author:** Russell A. Kelly; S. Scott Story.

**Statutory Authority:** Code of Alabama 1975, §§ 22-22-A-5, 22-27-4, and 22-27-7.

**History:** November 2, 1993.

**Amended:** July 26, 1996; XXXXX, 2018.