

APA-1

TRANSMITTAL SHEET FOR NOTICE
OF INTENDED ACTION

Control: 335

Department or Agency: Alabama Department of Environmental Management Land
Division - Solid Waste Program

Rule No.: 335-13-4-.21

Rule Title: General Operational Standards For Landfill Units

Intended Action Amend

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? Yes

To what degree?: Increased capital costs due to investments in tire processing
equipment/facilities, and potential adjustments to existing
scrap tire management infrastructure including labor,
equipment, energy, and maintenance costs are possible.

Is the increase in cost more harmful to the public than the harm
that might result from the absence of the proposed rule? No

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

Does the proposed action relate to or affect in any manner any
litigation which the agency is a party to concerning the subject
matter of the proposed rule? No

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 Services Agency.

Signature of certifying officer

Jeffery W. Kitchens
Jeffery W. Kitchens

Date

Thursday, June 13, 2024

REC'D & FILED

JUN 13, 2024

LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION - SOLID
WASTE PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

RULE NO. & TITLE: 335-13-4-.21 General Operational Standards For
Landfill Units

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Revisions to 335-13-4-.21 are being proposed to make general needed updates and to restrict disposal of whole tires in a landfill.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held at 1:30 p.m. on August 8, 2024, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110. Attendance at the hearing is not necessary to present such data, views, arguments, or comments. All comments should be received by 5:00 p.m., August 8, 2024.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, August 8, 2024

CONTACT PERSON AT AGENCY:

Lynn T. Roper, 334-271-7728

Jeffery W. Kitchens

Jeffery W. Kitchens

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

General Operational Standards For Landfill Units.

Any- person or agency operating or planning to operate a landfill- unit shall operate and maintain the facility consistent with- this Division. General requirements for operating and- maintaining an acceptable landfill unit shall be:

(1) General Operation.

(a) The operation and use of the landfill unit shall- be as stipulated in the permit.

(b) Waste accepted at the facility shall be strictly-~~controlled so as to allow only waste stipulated on the permit or otherwise as may be approved by the department. The permittee~~ controlled so as to allow only waste stipulated in the permit or otherwise as may be approved by the Department. The permittee of any facility permitted under these rules must have in the- operating record a plan describing procedures the permittee will- implement for detecting and preventing the disposal of free- liquids, regulated hazardous wastes, regulated medical wastes,- and regulated PCB wastes at the facility. This plan must- include at a minimum:

1. Random inspections of incoming loads to ensure- that incoming loads do not contain free liquids, regulated- hazardous wastes, regulated medical wastes, or regulated PCB- wastes.

2. Inspection of suspicious loads.

3. Records of all inspections to include the origin- of waste suspected to be regulated hazardous, regulated medical,- or regulated PCB waste if known; transporters, to include- transfer stations and all handlers of the waste en route to the- disposal site; and any certifications from generators provided- to the permittee or facility personnel. These records must be- maintained on file in the operating record of the facility.

4. Training of facility personnel to recognize free- liquids, regulated hazardous wastes, regulated medical wastes,- and regulated PCB wastes.

5. Procedures for notifying the proper authorities if- free liquids, regulated hazardous wastes, regulated medical- wastes, or regulated PCB wastes are discovered at the facility.

6. Methods to identify all industrial users of the- facility, producers of special wastes, and transporters of these- wastes.

(c) Prior to disposal of industrial waste and/or- medical waste, the permittee shall obtain from each generator a- written certification that the material to be disposed does not- contain free liquids, regulated hazardous wastes, regulated- medical wastes, or regulated PCB wastes.

1. This certification may be based on laboratory- analysis of the waste on a case-by-case basis, or documentation- supporting the generator's knowledge of the wastestreams(s), or- as may be required by the Department.

2. Copies of the certification shall be submitted to ~~the~~ Department for disposal approval and for any specific ~~requirements~~ prior to disposal. After submittal of the required ~~certification~~, the Department shall have five (5) working days ~~to respond~~. If no response is given, the permittee may dispose ~~of the material as proposed~~.

3. In the case of one-time emergency disposal ~~requests~~, the permittee shall submit the required certification ~~no later than~~ five (5) days after the disposal of waste.

4. Certification shall be renewed or revised ~~biennially~~ (every two years) or at such time that operational ~~changes~~ at the point of generation could render the waste ~~hazardous~~, whichever is more frequent and submitted to the ~~Department~~ for approval.

5. Copies of these certifications and approvals ~~shall be~~ maintained on file in the operating record of the ~~facility~~ and shall be made available for the Department upon ~~request~~.

6. The above requirements notwithstanding and, as ~~may otherwise~~ be required, pursuant to Division 13 rules, ~~generators will not~~ be required to submit certification to the Department provided that:

(i) The waste will be disposed of at a non-commercial ~~industrial waste landfill~~ which has been permitted by the ~~Department~~, and is owned either exclusively or mutually by the ~~generator(s) of the waste~~, and which disposes of waste generated ~~only by the owner(s)~~;

(ii) The wastestream(s) to be disposed of are ~~specifically~~ described in the Solid Waste Landfill Permit issued ~~by the~~ Department or in the final application as referenced by ~~the~~ permit for the site designated to receive the waste;

(iii) The required certification, as described above, ~~is~~ maintained on-site by the owner(s) of the landfill; and

(iv) The required certification, as described above, ~~is made~~ available for inspection by the Department upon request.

(d) The landfill unit shall be operated in such a ~~manner~~ that there will be no water pollution or unauthorized ~~discharge~~.

1. Any discharge resulting from a landfill unit or ~~practice~~ may require:

(i) A National Pollutant Discharge Elimination System ~~(NPDES)~~ permit under the Alabama Water Pollution Control Act as ~~issued~~ by the Department.

(ii) A dredge or fill permit from the Army Corps of ~~Engineers~~ as required under Section 404 of the Clean Water Act, ~~as~~ amended; or

(iii) That a non-point source of surface waters does ~~not~~ violate an area wide or statewide water quality management ~~plan~~ that has been approved under the Alabama Water Pollution ~~Control Act~~.

2. The groundwater shall not be contaminated as ~~specified~~ by this Division.

(e) The historic and certified disposal areas shall ~~be~~ identified with a sufficient number of permanent markers ~~which~~ are at least visible from one marker to the next.

(f) Measuring or weighing devices shall be required ~~for all~~ municipal solid waste landfill units accepting solid ~~waste~~. All solid waste shall be properly measured or weighed ~~prior to~~ disposal unless otherwise approved by the Department.

(g) Deep rooted vegetation (with roots that may grow ~~below the~~ six inch erosion layer) shall be prohibited as ~~vegetative~~ cover.

(h) With the exception of very small quantity ~~generator waste~~ disposed of in municipal solid waste landfills, ~~regulated~~ hazardous waste, as defined by Division 14 of the ADEM ~~Administrative Code~~, is prohibited from disposal in a ~~non-~~ hazardous landfill unit.

(i) Except as provided in paragraph 1. below, a landfill shall not dispose of whole tires after December 31, 2026. Whole tires shall at a minimum be shredded or cut into quarters or smaller pieces prior to disposal.

1. Incidental whole tires received in loads of solid waste may be disposed, provided the whole tires constitute a de minimis portion of the overall load of waste.

2. "De minimis" refers to a small amount of material or number of items, as applicable, commingled and incidentally disposed of with other solid waste.

(2)~~Open Burning.~~

(a) Open burning of solid waste at any landfill unit ~~is~~ prohibited unless approved by the Department as follows:

1. Clearing debris at the landfill unit such as ~~trees and~~ stumps may be burned if prior approval is received ~~from the~~ Department and the Alabama Forestry Commission.

2. Emergency clean-up debris resulting from ~~catastrophic~~ incidents may be burned at a permitted landfill ~~unit if~~ consistent with the intent of this Division and air ~~pollution~~ control requirements. Prior approval must be received ~~from this~~ Department and other appropriate agencies.

3. If approved, the burning shall not occur over ~~previously~~ filled areas or within 200 feet of existing disposal ~~operations~~ unless otherwise specified by the Department and such ~~burning~~ shall not cause a public nuisance or pose a threat to public health.

(b) The person or agency requesting permission to ~~burn solid~~ waste shall apply in writing to the Department, ~~outlining why a~~ burn request should be granted. This request ~~should include,~~ but not be limited to, specifically what areas ~~will be~~ utilized, types of waste to be burned, the projected ~~starting~~ and completion dates for the project, and the projected ~~days~~ and hours of operation.

Author: Russell A. Kelly, S. Scott Story, Heather M. Jones, [Jason Wilson](#)

Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-27-3, 22-27-4, 22-27-7, 22-27-47, 22-27-48.

History: November 18, 1981; **Amended:** March 31, 1988 (Emergency Regulations); July 21, 1988; October 2, 1990.

Amended: Filed September 28, 1993; effective November 2, 1993.

Amended: Filed June 21, 1996; effective July 26, 1996.

Amended: Filed April 24, 2018; effective June 8, 2018.

Amended: Filed June 25, 2019; effective July 9, 2019.

Amended: Published October 29, 2021; effective December 13, 2021. [Amended: Published ; effective .](#)

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

Control No:	<u>335</u>
Department or Agency:	<u>Alabama Department of Environmental Management Land Division - Solid Waste Program</u>
Rule No:	<u>335-13-4-.21</u>
Rule Title:	<u>General Operational Standards For Landfill Units</u>
Intended Action:	<u>Amend</u>

 This rule has no economic impact.

 Yes This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

Pursuant to Sections 22-27-12(8), 22-27-12(9), 22-27-15, 22-27-42, 22-40A-2(b), 22-40A-13 and related sections of the Code of Alabama, ADEM is charged with the responsibility to foster and encourage recycling of solid wastes as an alternative to disposal, to facilitate the reduction of waste volumes in within the state, to encourage waste processing including recycling, reuse, and utilization of waste-to-energy technology to reduce the volume of waste necessary for land disposal, and to promote and stimulate the development of end use markets for recyclable materials, including scrap tires.

Need: Currently 39 states, including all other states in the southeastern United States, have banned the landfilling of whole tires, and this has caused a significant increase in the disposal of out-of-state tires in permitted solid waste landfills located in Alabama. Landfilling of whole tires results in compliance issues for the landfills. Alabama has been working to promote recycling of scrap tires and use of recycled tire material in the state. Allowing whole tires to be landfilled is counterproductive to encouraging scrap tire recycling.

Expected Benefits: This rule will reduce observed compliance issues at landfills managing tire materials and will increase recycling of scrap tires and the materials produced from scrap tire materials.

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

Costs: Businesses may incur costs related to compliance with regulatory requirements, such as staff training, staff operating onsite tire processing equipment, and other obligations associated with onsite tire processing.

Benefits: Facilities that process whole tires will have increased growth opportunities as the demand for processed whole tires and the availability of processed tire materials increases due to the ban on the disposal of whole tires. The whole tire ban creates opportunities for businesses to develop products made from recycled tire materials, such as rubberized asphalt, rubber matting and flooring products, playground surfaces, construction materials, and other consumer goods, and recovery of valuable energy from processed tire material.

Cost Effective, Efficient, Feasible: By preventing whole tire disposal in landfills, more tires will be recycled, which will preserve valuable landfill disposal capacity with the State and will encourage recovery and recycling of scrap tires. Recycling these materials reduces the demand for virgin resources, minimizes the environmental footprint associated with resource extraction and processing, and conserves natural resources. While implementing a whole tire landfill ban may require upfront costs for infrastructure, regulatory compliance, and public awareness campaigns, the long-standing benefits in terms of environmental protection, resource conservation, and economic development, outweigh these costs.

3. EFFECT OF THIS RULE ON COMPETITION:

The rule should have no effect on competition.

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

The whole tire ban may increase the cost of waste tire disposal for scrap tire receivers, scrap tire transporters, and landfills that rely on landfilling whole tires as a primary disposal method. These additional costs may be passed on to the everyday consumers. These businesses may need to invest in tire processing equipment, which could entail higher operational costs. The Department plans to make grant funds available to assist facilities and local governments in purchasing appropriate tire processing equipment to aid in the transition of the scrap tire processing program.

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

The whole tire disposal ban is expected to stimulate job creation in the tire recycling and waste management sectors as the demand for tire processing facilities increases. This includes jobs in tire collection, transportation, and processing facilities.

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

The current fees from the Scrap Tire Program and the Solid Waste Fund will be adequate for enforcing the new rule.

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

Landfills and scrap tire facilities may face some increased costs associated with the implementation of a whole tire ban, which may be passed on to consumers. The scrap tire processing industry and processed scrap tire materials end users industries will benefit from a whole tire disposal ban due to increased recycling of scrap tires, which will lead to increased conservation of natural resources due to the reduction in virgin materials required. Savings of valuable landfill space as compared to whole tire disposal will be realized.

It is anticipated that the overall economic impact of this rule will be cost-neutral, as any additional costs associated with processing of whole tires will be offset by the increased revenues generated by increased end markets for, and utilization of, processed tire material for energy recovery and for production of new products.

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

Benefit: Conservation of natural resources through increased recycling of tire materials with an increase in revenue potential from recycling and reusing scrap tire-derived materials. New job opportunities will be realized in the tire recycling industry, green technology sector, and related fields, contributing to economic growth and employment.

Burden: Increased capital costs due to investments in tire processing equipment/facilities, and potential adjustments to existing scrap tire management infrastructure including labor, equipment, energy, and maintenance costs are possible.

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

The whole tire ban encourages the recycling of scrap tires, leading to the recycling and/or recovery of valuable materials such as rubber and

steel. Recycling of scrap tires conserves natural resources by reducing the need for virgin materials, thus providing an overall positive environmental impact.

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

Without a ban, whole tires will continue to be disposed of in landfills. Whole tires are difficult to manage and take up significant space in landfills; and can lead to the premature filling of landfill capacity, requiring the expansion or creation of new landfills.

Signature of certifying officer

Jeffery W. Kitchens

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Date

Thursday, June 13, 2024