



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-R04-RCRA-2017-0534; FRL-9967-81-Region 4]

### **Alabama: Notice of Determination of Adequacy of Alabama's Financial Assurance Regulations for the State's Municipal Solid Waste Landfill Permit Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** On November 28, 2016, the Alabama Department of Environmental Management (ADEM) submitted a final solid waste Financial Assurance Program Approval Application to the Environmental Protection Agency (EPA) seeking a Determination of Adequacy for its solid waste financial assurance regulations. ADEM supplemented this application on January 4 and 5, 2017. Subject to review and comment, this document approves ADEM's application and grants a Determination of Adequacy for Alabama's municipal solid waste landfill (MSWLF) financial assurance program.

**DATES:** This Determination of Adequacy for Alabama's MSWLF financial assurance regulations will be effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, unless adverse comments are received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If EPA receives adverse comments, EPA will review such comments and publish another *Federal Register* document responding to the comments and either affirming or revising this initial decision.

**ADDRESSES:** Written comments, identified by Docket ID No. EPA-R04-RCRA-2017-0534, can be submitted to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Comments can also be sent to Davy Simonson, Materials and Waste Management Branch, Resource Conservation and Restoration Division, U.S. EPA Region 4,

Atlanta Federal Center, 61 Forsyth Street, SW (Mailcode: 9T25), Atlanta, Georgia 30303-8960; telephone: (404) 562-8457. Comments may be submitted electronically to *simonson.davy@epa.gov*, or by facsimile to (404) 562-9964. You may examine copies of the application materials submitted by Alabama during normal business hours at EPA Region 4, or at the offices of ADEM, 1400 Coliseum Boulevard, Montgomery, Alabama 36110-2400, attn: Russell A. Kelly, Chief, Permits and Services Division, telephone: (334) 271-7714.

Once submitted, comments cannot be edited or withdrawn. EPA may publish any comment received at its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Davy Simonson, Materials and Waste Management Branch, Resource Conservation and Restoration Division, U.S. EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW (Mailcode: 9T25), Atlanta, Georgia 30303-8960; telephone number: (404) 562-8457; fax number: (404) 562-9964; email address: *simonson.davy@epa.gov*.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6945(c)(1)(B), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires that states develop and implement permit programs to ensure that MSWLFs receiving household

hazardous waste or small quantity generator waste comply with the minimum federal criteria for MSWLFs in Title 40 of the Code of Federal Regulations (40 CFR) part 258. Section 4005(c)(1)(C) of RCRA, 42 U.S.C. 6945(c)(1)(C), then requires that EPA determine whether a state's MSWLF permit program is adequate. The federal regulations at 40 CFR part 239 set forth the procedures EPA will follow in determining the adequacy of such state programs.

In 1993, Alabama applied to EPA for partial program approval for its MSWLF permit program. At that time, ADEM did not have the statutory authority to require financial assurance at MSWLFs; however, its regulations contained all of the other required MSWLF criteria in 40 CFR part 258. On March 2, 1994 (59 FR 9979), EPA granted a Determination of Adequacy to Alabama, approving its MSWLF permit program, with the exception of the financial assurance criteria contained in 40 CFR part 258, subpart G. In June 2005, the Alabama State Legislature enacted a statute allowing ADEM to require financial assurance at MSWLFs. Alabama's regulations were amended in December 2005 to add financial assurance requirements that mirror the federal financial assurance regulations at 40 CFR part 258, subpart G.

On November 28, 2016, Alabama submitted a final solid waste Financial Assurance Program Approval Application to EPA. ADEM submitted supplemental information to support its application on January 4 and 5, 2017. The application covers ADEM's MSWLF financial assurance program, only.

## **II. Decision**

After reviewing Alabama's application, EPA concludes that Alabama's financial assurance regulations, as set forth at ADEM Administrative Code (Admin. Code r.) 335-13-4-.28, along with the statutory authority provided in Section 22-27-8 of the Alabama Code, are adequate to ensure compliance with the federal criteria set forth at 40 CFR part 258, subpart G (§§ 258.70 through 258.74).

Accordingly, EPA is granting a Determination of Adequacy for the portion of Alabama's MSWLF

permit program relating to financial assurance requirements. EPA's approval of Alabama's financial assurance program will result in full federal approval of the State's MSWLF permit program.

This action takes effect sixty (60) days after the date of publication if no adverse comments are received. EPA's action only addresses Alabama's financial assurance requirements for its MSWLF permit program. EPA is not reopening, nor soliciting public comments on, its prior approval of the remaining portions of Alabama's MSWLF permit program. EPA will only respond to comments addressing the financial assurance portion of Alabama's MSWLF permit program.

**Authority:** This action is issued under the authority of sections 2002, 4005, and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945, and 6949(a).

Dated: November 9, 2017.

**Onis "Trey" Glenn, III,**

*Regional Administrator,*

*Region 4.*

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