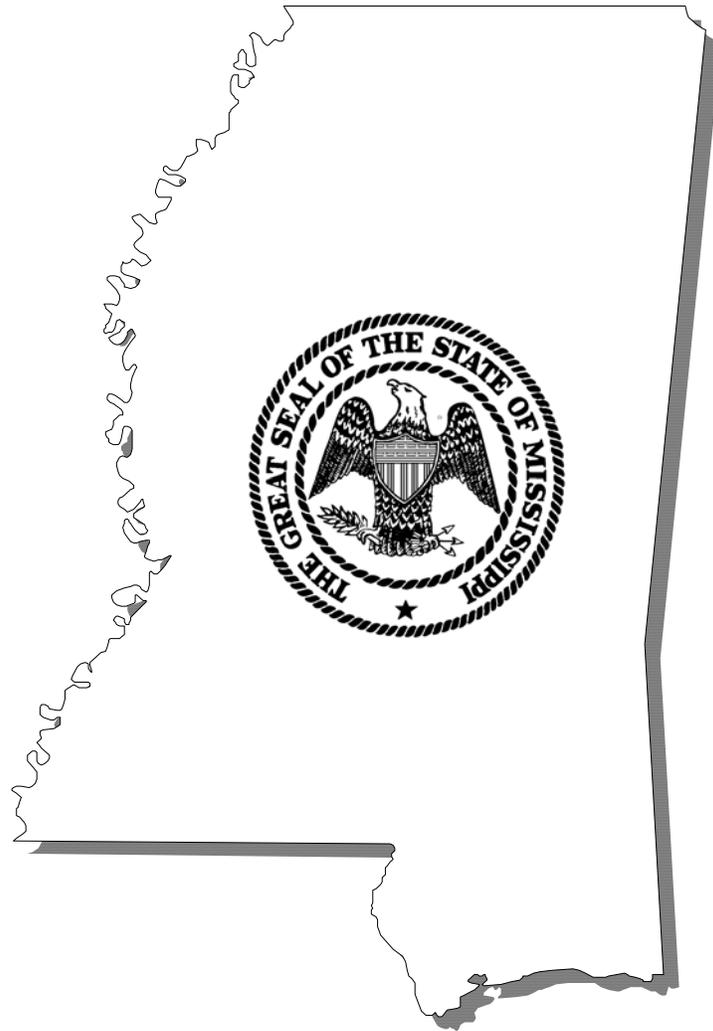


GUIDANCE FOR MODIFYING A LOCAL SOLID WASTE MANAGEMENT PLAN



SEPTEMBER 2006



**Mississippi Department of Environmental Quality
Solid Waste Policy, Planning and Grants Branch**

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Forms for Local Government Use:

Request for Amendment Form (and Submittal Checklist)

Forms for Applicant Use:

Applicant Request Form

Introduction

State law requires that local governments develop a 20-year solid waste management plan for the solid wastes managed in their jurisdictions and submit these plans for the approval of the Mississippi Commission on Environmental Quality (Commission). These local governments may include counties, cities, solid waste management authorities, or solid waste management districts. Each local government should annually review and update the approved local plan to assess the adequacy of existing solid waste management programs and capacity, to evaluate the need for new or expanded solid waste management programs and services, and to ensure the progression of planned implementation schedules.

Potential modifications to the local plan may originate from entities such as private individuals, commercial businesses, local industrial facilities, or the local government. Typical modifications may include the addition of a new or expanded commercial solid waste management facility, a significant change in the operation or the service area of an existing facility, or any other significant change in the manner of solid waste management in the planning area. In these cases, the seven steps outlined in this document describe the procedures that must be completed in order to modify an approved local solid waste management plan.

In instances where a proposed modification to the local plan does not involve or result in a significant change in the manner of solid waste management in the planning area, a “minor modification” may be considered. A minor modification would also include the addition or expansion of facilities which are noncommercial, on-site, and captive to wastes generated solely by the owner of the facility or which do not require solid waste management permits from the Mississippi Environmental Quality Permit Board. In the case of a minor amendment, the local government may choose to forego the public participation and notification portion of the process (Step 3). Local governments are encouraged to consult the Mississippi Department of Environmental Quality (Department) prior to processing a proposed amendment as a minor modification.

Step 1: Preliminary Actions for Initiating a Modification to the Local Plan

Generally, the following actions should occur in order to properly initiate the process to modify the local plan:

a) Submittal of a Formal Request

Any entity seeking to modify the local solid waste management plan to include the addition of a new or expanded commercial solid waste management facility, modify the operations or the service area of an existing facility, or otherwise significantly change the manner of solid waste management within the planning area must first submit a formal request to the local government. Such a request should be made on the attached *Applicant Request Form* and should address, at minimum, the information required on the form. The entity making the request should also submit a copy of this request form to the Department at the time of submittal to the local government. The local government may request additional information

not on the form from the persons making the request in order to assist the local officials in their decision-making process.

b) Preliminary Review and Consideration by the Local Government

The local government should review and duly consider requests for the proposed modification of the local plan. Typically, this review considers such issues as the need for the facility; the consistency of the proposed modification with the goals and implementation schedules of the approved plan; local siting issues such as zoning, land use, and environmental justice; and other potential issues considered significant by the local government.

Demonstration and Determination of Need:

According to Miss. Code Ann. Section 17-17-227, each local solid waste management plan must include a determination of need by the local government for any new or expanded solid waste management facility proposed for inclusion in the plan. The determination of need must include, at minimum, the following items:

- i. Verification that the proposed facility meets needs identified in the approved local nonhazardous solid waste management plan which shall take into account quantities of municipal solid waste generated and the design capacities of existing facilities;
- ii. Certification that the proposed facility complies with local land use and zoning requirements, if any;
- iii. Demonstration, to the extent possible, that the operation of the proposed facility will not negatively impact the waste reduction strategy of the local government submitting the plan;
- iv. Certification that the proposed service area of the proposed facility is consistent with the local nonhazardous solid waste management plan; and
- v. A description of the extent to which the proposed facility is needed to replace other facilities.

To facilitate the local government's consideration and decision on the need for a new or expanded solid waste management facility the applicant shall prepare a demonstration of need that addresses each of the components described above (see attached Applicant Request Form). The local government may require additional information from the applicant to further develop or supplement this demonstration of need or may collect information from other sources.

If the local government determines that a facility should receive further consideration for inclusion into the local plan based on their review, then the local government shall develop a preliminary determination of need from the applicant's demonstration and other collected information. This preliminary determination of need shall be incorporated into the draft pages of the plan as described in Step 2 and shall be presented for review and comment during the public participation process.

Local Siting Issues:

When zoning issues and land use issues are being considered, the Department encourages the local government to resolve potential issues such as the rezoning of a property prior to beginning the process to amend the solid waste management plan. In some instances, the local government also may evaluate the potential for environmental justice issues to exist with the proposed siting of a new solid waste management facility. In cases where environmental justice may be a potential issue, the Department encourages the local government to place added emphasis on the local public participation process and the meaningful involvement of the local community during the planning amendment process.

Other Issues:

The local government also may consider other potential issues. These may include operational concerns such as traffic, noise, odor, past performance/compliance history, or other similar issues. The Department encourages the local government to consider any potential issues early in the planning process so that these issues may be adequately addressed during the public participation process.

If the preliminary review and consideration convinces the local government that the proposed modification should be further considered, then the local government should complete Steps 2-7 of this guidance to properly modify the local plan. Alternatively, if a local government determines that the proposed modification is not needed or is otherwise inconsistent with the approved local plan, then the requested modification may be denied and the process halted at the local level. In this case, no public notices, hearings, or other actions are required by State law, however, the Department would request that the local government advise the Department of the denial of the proposed amendment.

Step 2: Preparing Written Modifications to the Plan

In order to further consider a proposed modification to the plan and continue the amendment process, the local government must prepare a written description of the proposed solid waste management facility, existing facility modification, or other proposed change. This description must be prepared as modified pages intended for insertion or replacement in the official copies (hard copy and electronic copy if available) of the local plan maintained by the local government and the Department. For new or expanded solid waste management facilities, the facility description must also include a preliminary determination of need as developed by the local government from the information in the demonstration of need provided by the applicant (see Items i.-v. in Step 1.b).

The modified page(s) should be developed for insertion into the existing local plan at the most appropriate or logical place in the plan. For example, when adding a new solid waste management facility, the facility description might be most appropriately added or inserted into the “Comprehensive Inventory of Local Solid Waste Management Facilities” section or some similar section. Likewise, any additional tables, appendices, or other sections in the plan that include information regarding the proposed facility should also be revised. If adding new

information to the plan causes the existing content of a page to extend to the next page, then revised pages for the entire chapter following the revision may need to be submitted. However, it is only necessary to submit those pages that change from the existing approved plan.

When adding a new solid waste facility or expanding or modifying an existing facility in the plan, the facility description must include the following information:

- a. the type of facility (e.g. municipal landfill, class II rubbish site, transfer station, etc.);
- b. the type of waste(s) proposed to be managed;
- c. the name of the owner and operator of the facility;
- d. the proposed size of the facility including proposed disposal area and total property area;
- e. the proposed location of the facility including Section, Township, and Range;
- f. the physical address of the facility;
- g. a description of the specific service area from which the waste proposed for acceptance at the facility will be generated. The approved service area should generally be defined by the cities, counties, or states from which the waste may originate or by some specified radius (in miles) from the facility boundary or another selected boundary; and
- h. a preliminary determination of need as developed by the local government from information in of the demonstration of need provided by the applicant (Items i.-v.).

Step 3: Public Participation and Notifications

The local government must conduct a public participation process that provides for the meaningful involvement of the general public. At minimum, the local government must develop a public notice which describes the proposed planning modification, establishes a public comment period, specifies where documents relating to the proposed modification may be reviewed by the public, provides a mechanism for receiving written comments, and provides notice of the mandatory public hearing where additional comments may be received. The documents to be made available for public review should generally include, at minimum; copies of the Applicant Request Form and the applicant's demonstration of need, copies of the existing plan, copies of the modified pages of the plan, and a copy of the public notice. Additionally, the local government must notify each adjacent county of the proposed modifications. Also, in instances where a new or expanded solid waste management facility is proposed for inclusion in the plan, the local government must ensure that contiguous landowners receive proper notification of the proposed facility.

a) Public Notice

A detailed public notice must be published at least *twice* in a newspaper of general circulation in the county where a facility is located (or proposed to be located). Such a notice may need to be published in more than one newspaper if the modification involves multiple counties in a regional plan. The notice should be conspicuously displayed in the newspaper. The public notice should, at a minimum:

1. indicate the name and mailing address of the person or company making the request for the proposed modification;

2. describe the proposed modification in detail. For a new or existing facility, the notice must include:
 - the type(s) of solid wastes to be managed,
 - proposed size of the facility including total property acreage and proposed waste disposal/management acreage;
 - the location of the facility including the physical address and the Section, Township, and Range of the site, and
 - the geographical service area for the facility from which wastes are to be received.
3. specify the location where the documents relating to the proposed modification are available for review by the public;
4. establish a 30-day comment period and a mechanism or process for submitting comments related to the proposed modification; and
5. include the date, time, and place of the scheduled public hearing concerning the proposed modification.

b) Public Hearing

A public hearing must be held by the local government to provide local citizens an opportunity to verbally express their comments or concerns regarding the proposed planning modification. Such a hearing may be held during a regularly scheduled meeting of the local government and should allow attendees ample time to voice their comments concerning the proposed modification. However, when a significant degree of public interest is anticipated, the Department recommends that public hearings be held after normal business hours. Should there be a significant number of commentators present at a hearing, the local government may consider extending the comment period after the hearing for the submittal of additional written comments concerning the issue, especially if some attendees do not have time to speak. If any written or verbal comments are received, the local government should establish an appropriate time period after the hearing for review and consideration of the expressed comments before making a final decision on the proposed modification. However, the local government must act on the proposed amendment within ninety (90) days of the public hearing (Step 4).

c) Notifications to Adjacent Counties

According to State law, the local government must notify in writing the Board of Supervisors of each adjacent county of the proposed modifications to the plan. In instances where the adjacent county receiving the notification is part of a regional authority, the Department encourages the local government to also notify the governing body of the regional authority. This notification should be sent at the time of publication of the public notice and should include the information included in the public notice (Step 3.a) or an actual copy of the public notice. Additionally, any other information pertaining to the proposed modifications should be made available for their review upon request.

d) Notifications to Contiguous Landowners

When a proposed modification to the plan includes a new or expanded solid waste management facility (except land application facilities), the local government must ensure that the owners of contiguous property are notified in writing. Contiguous property shall include any property sharing a common border or point with a property where a new or expanded solid waste management facility is proposed. A property shall also be considered contiguous if the properties are separated by a street, highway, railroad line or other similar transit or utility right-of-way or other property owned by the applicant.

Written notification shall be sent by certified mail to the contiguous landowner's address as indicated on county tax records. This notice may be sent by either the applicant or the local government, but must be sent no later than the first date of publication of the public notice and must contain a copy of the subject public notice (Step 3.a). Documentation of these notices must be provided to the Department by the local government and must include copies of the signed receipts of certified mail delivery or a copy of any returned certified mail item that is refused or otherwise undeliverable.

Proof of publication and a copy of the public notice should be submitted to the Department as described in Step 5. Additionally, a summary statement of all comments received or a transcript of the public hearing should be submitted. Finally, when written or verbal public comments are received, the local government should develop a brief written statement that describes how such comments were ultimately considered and what actions, if any, were taken to alter the proposed modification based on these comments. If no written or verbal public comments were received, then the local government should also indicate that in writing.

Applicants should be aware that the local government may choose to approve, alter, or deny proposed modifications based upon information or comments received during the public participation process. For instance, based on public comments at the public hearing, the local government might choose to restrict the proposed service area or to reduce the proposed disposal acreage. If the request is denied, no additional actions are required, but the Department would request that the local government advise the Department of the denial of the proposed amendment.

Step 4: Formal Resolution

Following the 30-day comment period and associated public hearing, the local government should act upon the request to modify the plan. This action may consider the originally proposed modification or a new version of the proposed modification that has been altered based upon public comments, the desires and needs of the local government, or other information considered during the process.

If the local government acts to approve a proposed amendment, then a formal resolution memorializing that approval must be adopted within 90 days of the public hearing date. In certain instances, when a regional plan is modified, the Department should be consulted to determine if resolutions may be required of multiple counties. Upon completion, a signed and

certified copy of the resolution(s) and a formal request for approval of the proposed amendment should be submitted to the Department. In general, the resolution should memorialize each step of the planning amendment process, including relevant dates. Additionally, the local government should incorporate appropriate language in the resolution to address how public comments were received and considered, to formally express their concurrence with the results and findings of the demonstration of need, and to formally request that the Department review and consider the proposed modification.

The local government also may act to deny the proposed amendment due to the consideration of public comments or other information received during the public participation phase of the amendment process. If the request is denied, no additional actions are required, but the Department would request that the local government advise the Department of the denial of the proposed amendment.

Step 5: Submittal Requirements

Once approved by resolution, the local government should submit a formal request to the Department to modify the local plan. The submittal should include two copies of the following:

- a. the completed *Local Government Request Form* and/or cover letter requesting that the Department consider the proposed modifications to the local plan;
- b. the original and any revised copies of the *Applicant Request Form* signed by the applicant and including the demonstration of need and any additional documents or supplemental information (Steps 1.a);
- c. the revised page(s) of the plan including relevant facility information and a description of the determination of need for any new or expanded facility (Step 2);
- d. the public notice including certified proof of publication (Step 3.a);
- e. the summary statement of public comments received and/or a transcript of the public hearing (Step 3.b). Where public comments were received, this should also include a written statement describing how these comments were ultimately considered;
- f. the letters notifying adjacent counties of the modifications (Step 3.c);
- g. for new or expanded facilities, the letters to contiguous property owners and copies of the signed certified mail delivery receipts or of any returned certified mail item that is refused or otherwise undeliverable (Step 3.d); and
- h. the signed and certified final resolution by the local government approving the proposed modifications and confirming that the determination of need for any new or expanded facilities has been considered and approved by the local government (Step 4).

Step 6: Department Review and Request for Hearing

The Department will review the submitted request from the local government for modification of the approved plan and the previously described supporting documents. Upon determining that the request is complete, the Executive Director of the Department may approve the modification under the delegation of the Commission or the Department may make a recommendation to the Commission for their consideration regarding the proposed modification. Generally, the Commission will consider and act upon any controversial matters or any matters involving a new

or expanded municipal solid waste landfill. The resulting action on the proposed modification will be recognized through the issuance of an Administrative Order to the local government approving or denying the proposed change in the local plan.

Any person or interested party may request that a hearing be conducted regarding the issuance of the Administrative Order in accordance with Section 49-17-41 of the 1972 Mississippi Code Annotated within thirty (30) days of the issuance date of the Administrative Order acting upon the planning modification. The request must be made in writing to the Executive Director of the Department at the address in the contact information section of this document.

Step 7: Maintaining an Official Copy of the Approved Local Plan

Upon receipt of the Administrative Order confirming the approval of the proposed amendment by the Commission, the local government should replace the affected pages of the approved plan (the hard copy and electronic copy, if available) with the revised pages of the plan as approved. This action should assist the local government with properly completing future amendments or planning reviews by ensuring that the approved plan is up to date and that the local copy of the plan is consistent with the copy on file with the Department.

Minor Modifications to the Local Plan

If a proposed modification to the local plan does not involve or result in a significant change in the manner of solid waste management in the planning area, then the local government may consider a minor modification to the plan. Minor modifications allow the local government, at its discretion, to forego the notification and public participation portion of the amendment process as described in Step 3. The remaining steps of the process must be completed as described in this document. Local governments are strongly encouraged to consult the Department prior to processing a proposed modification as a minor amendment.

Minor modifications include the addition or expansion of facilities which are noncommercial, on-site, and captive to wastes generated solely by the owner of the facility or which do not require solid waste management permits. Minor amendments would *not* include the addition of a new or expanded commercial solid waste management facility, a significant change to the operation of an existing facility, a change to the service area for an existing facility, or any other significant change in the manner of solid waste management in the planning area.

Contact Information

Questions regarding any of the procedures described herein as well as any information submitted in adherence with these procedures should be addressed to the Solid Waste Policy, Planning and Grants Branch of the Mississippi Department of Environmental Quality at (601) 961-5171 or at P.O. Box 2261, Jackson, Mississippi 39225. This and other associated documents pertaining to solid waste management and planning may be found on the web at:

http://www.deq.state.ms.us/MDEQ.nsf/page/SW_Home?OpenDocument

LOCAL GOVERNMENT REQUEST FORM (AND CHECKLIST) TO AMEND THE LOCAL SOLID WASTE MANAGEMENT PLAN

This form may serve as the formal request of the local government to MDEQ for consideration of the proposed amendment to the local solid waste management plan. The form should be completed and signed by the appropriate government official(s) and may be submitted in lieu of a cover letter. (please type)

Name of Local Government: _____

Title of Local Plan: _____

Description of Proposed Modification: _____

As the local governing body responsible for solid waste management planning, we hereby formally submit to the Mississippi Department of Environmental Quality the following information and documentation regarding the proposed modification to the local solid waste management plan described above. The submitted information includes, at a minimum, the following:

- 1. Formal request for amendment (this form or cover letter)
- 2. Two copies of the completed Applicant Request Form, including the demonstration of need and any additional documents or supplemental information
- 3. Two copies of the revised/insertion pages of the plan describing all relevant facility information, including a description of the local government's determination of need for a new or expanded facility
- 4. Two copies of the public participation documentation and notifications, including:
 - ___ Public notice, including certified proof of publication
 - ___ Public hearing transcript and/or summary statement of comments received and statement describing how any public comments were ultimately considered
 - ___ Notification(s) to adjacent counties
 - ___ Notification(s) to contiguous landowners, including certified mail receipts, for any new or expanded facility
- 5. Two copies of the signed and certified formal resolution approving the proposed modification(s), including a description of public comments considered and the local government determination of need

We have duly reviewed and considered all information and public comments received regarding this matter in accordance with state law and are hereby requesting that the Commission on Environmental Quality approve this proposed amendment to the plan. We hereby certify by signature of our authorized representative that the above information has been included and submitted with this formal request to modify the local solid waste management plan.

Name of Authorized Representative:	Date: / /
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Title of Authorized Representative:

Signature of Authorized Representative:



Solid Waste Policy, Planning & Grants Branch
Mississippi Department of Environmental Quality
P. O. Box 2261, Jackson, MS 39225
Phone: (601) 961-5171 / Fax: (601) 961-5785



APPLICANT REQUEST FORM

FOR AMENDMENT TO THE LOCAL SOLID WASTE MANAGEMENT PLAN

This form should be completed by any persons seeking to locate a new/expanded solid waste management facility or to modify the existing operations or service area of a facility. The completed form should be submitted to the appropriate local government officials for consideration as a proposed amendment to the approved local plan. Be advised that local officials may request or require additional information in order to assist in their decision-making process. A copy of this request form should also be forwarded to the MDEQ at the address shown on the second page of this form at the time it is submitted to the local government.

1. Name of Applicant: _____

2. Address of Applicant: _____

City: _____ State: _____ Zip: _____

3. Contact Person: _____ Telephone No.: _____

4. Name of Facility: _____

5. Indicate type of facility:

_____	Municipal Solid Waste Landfill	_____	Transfer Station
_____	Industrial/Other Landfill	_____	Processing Facility
_____	Class I Rubbish Site	_____	Composting Facility
_____	Class II Rubbish Site	_____	Land Application Site(s)
_____	Waste Tire Facility (describe) _____		
_____	Other facility (describe) _____		

6. Will the proposed facility be Commercial or Non-Commercial? _____
[Note: A commercial facility means any facility which manages solid waste for compensation or which accepts solid waste from more than one generator not owned by the facility owner.]

7. Physical address of facility: _____

8. Section: _____ Township: _____ Range: _____ County: _____

9. Attach topographic quadrangle map depicting the location of the proposed site separately.

10. Name of Landowner: _____

Address: _____

Telephone No. of Landowner: _____

11. Request Type: New Facility Expansion of Existing Facility
 Other Modification (describe) _____

12. Proposed size of the facility: (a) proposed disposal/waste management in area (in acres): _____
(b) total property area (in acres): _____

13. Describe the wastes to be received at the site. If wastes are to be received from a single or limited source(s), please include the industry's name(s) or other source's name(s): _____

APPLICANT REQUEST FORM (continued)

14. Provide a description of the proposed service area. Generally, the service area should be described either in terms of the cities, counties, or states from which the wastes will originate or by some radius (in miles) from the facility boundary or another selected boundary (e.g. county line): _____

15. Does the applicant currently own or operate any other solid waste management facilities within the proposed service area?
Yes _____ No _____ If yes, what are the name and types of facilities and their locations: _____

16. According to Miss. Code Ann. Section 17-17-227, each local solid waste management plan must include a determination of need by the local government submitting the plan for any proposed new or expanded solid waste management facility. To assist in this determination, a demonstration of need should generally be prepared by the applicant and provided to the local government for review and consideration. The demonstration should be attached to this form as a separate sheet and must include each of the following items:
- i. Verification that the proposed facility meets needs identified in the approved local nonhazardous solid waste management plan which shall take into account quantities of municipal solid waste generated and the design capacities of existing facilities;
 - ii. Certification that the proposed facility complies with local land use and zoning requirements, if any;
 - iii. Demonstration, to the extent possible, that the operation of the proposed facility will not negatively impact the waste reduction strategy of the local government submitting the plan;
 - iv. Certification that the proposed service area of the proposed facility is consistent with the local nonhazardous solid waste management plan; and
 - v. A description of the extent to which the proposed facility is needed to replace other facilities.
17. Certification

To the best of my knowledge and belief, I certify that the information provided in this application, including attachments, is true, accurate, and correct. I further certify that I possess the authority to request this solid waste plan amendment.

Name of authorized representative (Please type or print)

Signature of authorized representative

Title of authorized representative (Please type or print)

Date