ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION - HAZARDOUS WASTE PROGRAM ADMINISTRATIVE CODE

CHAPTER 335-14-8 PERMIT PROGRAM

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335-14-8-.01 General Information.

(1) Purpose and scope.

(a) Coverage.

1. These permit regulations establish the procedures for obtaining a permit to transport, store, treat, or dispose of hazardous waste in compliance with the AHWMMA. The technical standards used to determine the requirements of any permit are set out in 335-14-3, 335-14-4, 335-14-5 and 335-14-7. These permit regulations also apply to the denial of a permit for the active life of an AHWMMA

hazardous waste management facility or unit under 335-14-8-.02(20).

2. Unless they qualify for interim status under 335-14-8-.07, all owners and operators of hazardous waste treatment, storage, and disposal facilities and all transporters of hazardous waste must apply for and receive a permit from the Department before the construction of any facility or the transportation of any hazardous waste.

(b) [Reserved]

(c) Scope of the AHWMMA permit requirement. AHWMMA requires a permit for the "treatment", "storage", and "disposal" of any "hazardous waste" as identified or listed in 335-14-2. The terms "treatment", "storage", "disposal", and "hazardous waste" are defined in 335-14-1-.02. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to 335-14-6-.07(6)) after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal as provided under 335-14-8-.01(1)(c)5. and 6., or obtain an enforceable post-closure document, as provided under 335-14-8-.01(1)(c)7. If a post-closure permit is required, the permit must address applicable 335-14-5 requirements (Groundwater Monitoring, Unsaturated Zone Monitoring, Corrective Action, and Post-Closure Care). The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under 335-14-8-.01(1).

1. [Reserved]

2. Specific exclusions and exemptions. The following persons are among those who are not required to obtain an AHWMMA permit:

(i) Generators who accumulate hazardous waste on-site in compliance with all of the conditions for exemption provided in 335-14-3-.01(4) through (7);

(ii) Farmers who dispose of hazardous waste pesticides from their own use as provided in 335-14-3-.07(1);

(iii) Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulation under 335-14-8 by

335-14-2-.01(4) or 335-14-3-.01(4) (very small quantity generator exemption);

(iv) Owners or operators of totally enclosed treatment facilities as defined in 335-14-1-.02;

(v) Owners and operators of elementary neutralization units or wastewater treatment units as defined in 335-14-1-.02 which manage only wastes and/or wastewaters generated on-site, or which are POTWs or privatized municipal wastewater treatment facilities;

[Note: Commercial treatment, or treatment except by the generator, of wastes and/or wastewaters in elementary neutralization or wastewater treatment units are not exempt from the requirement to obtain an AHWMMA permit.]

(vi) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of 335-14-3-.03(1) at a transfer facility for a period of ten days or less are not required to obtain a storage facility permit but must have a transporter permit;

(vii) Persons adding absorbent material to waste in a container and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container, and 335-14-6-.02(8)(b) and 335-14-6-.09(2) and (3) are complied with;

(viii) Generators treating on-site generated hazardous wastes by evaporation in tanks or containers provided that:

(I) The generator complies with the applicable requirements of 335-14-3,

(II) Such treatment does not result in the emission or discharge of hazardous wastes or hazardous constituents into the environment in excess of any standard(s) promulgated by the Department or the Environmental Protection Agency,

(III) With respect to treatment, the generator complies with the applicable requirements of 335-14-6-.02(5), 335-14-6-.02(6), 335-14-6-.02(7), 335-14-6-.02(8), 335-14-6-.03, 335-14-6-.04, 335-14-6-.07(2), 335-14-6-.07(5), 335-14-6-.09 and 335-14-6-.10,

(IV) Such treatment minimizes the amount of hazardous wastes which are subsequently generated, treated, and/or disposed, and

(V) The generator provides the Department with written notice of intent to treat such hazardous wastes on or before the effective date of 335-14-8-.01 or at least 60 days prior to the initiation of waste treatment, which ever date occurs last. This notice must provide documentation of compliance with the requirements of 335-14-8-.01(1)(c)2.(viii) (II), (III), and (IV), and must be maintained for the life of the facility and be available for inspection;

(ix) Universal waste handlers and universal waste transporters [as defined in 335-14-1-.02] managing the wastes listed below. These handlers are subject to regulation under 335-14-11:

(I) Batteries as described in 335-14-11-.01(2),

(II) Pesticides as described in 335-14-11-.01(3),

(III) Mercury-containing equipment as described in 335-14-11-.01(4),

(IV) Lamps as described in 335-14-11-.01(5), and

(V) Aerosol cans as described in 335-14-11-.01(6).

(x) Generators treating on-site generated hazardous wastes in tanks or containers by physical or mechanical processes (e.g., compacting rags, crushing fluorescent lamps) solely for the purpose of reducing the bulk volume of the waste which must be subsequently managed as a hazardous waste provided that:

(I) The generator complies with the applicable requirements of 335-14-3;

(II) The treatment process does not result in a change in the chemical composition of the waste(s) treated;

(III) No mixing of different waste streams occurs;

(IV) No free liquids are included in the waste(s) to be treated or generated by the treatment process;

(V) The potential for ignition and/or reaction of the waste during treatment and/or as the result of treatment does not exist;

(VI) The treatment reduces the volume of hazardous waste which must be subsequently managed;

(VII) Such treatment does not result in the emission or discharge of hazardous wastes or hazardous constituents into the environment in excess of any standard(s) promulgated by the Department, the Environmental Protection Agency, or the Occupational Safety and Health Administration (OSHA). Generators treating on-site generated hazardous wastes in fluorescent bulb/lamp units must maintain the following documents on-site: I. A copy of the manufacturer's equipment operations manual and specifications; II. A copy of all applicable equipment operation and maintenance records; III. A copy of all applicable OSHA compliance demonstrations and records: and IV. Documents/ records demonstrating emissions compliance.

(VIII) With respect to treatment, the generator complies with the applicable requirements of 335-14-6-.02(5), 335-14-6-.02(6), 335-14-6-.02(7), 335-14-6-.02(8), 335-14-6-.03, 335-14-6-.04, 335-14-6-.07(2), 335-14-6-.07(5), 335-14-6-.09, 335-14-6-.10; and

(IX) The generator provides the Department with written notice of intent to treat such hazardous wastes on or before the effective date of 335-14-8-.01 or at least 60 days prior to the initiation of waste treatment, whichever date occurs last. This notice must provide documentation of compliance with the requirements of 335-14-8-.01(1)(c)2.(x)(II), (III), (IV), (V), (VI), (VII), and (VIII), and must be maintained for the life of the facility and be available for inspection.

(xi) Persons deploying intact airbag modules and seatbelt pretensioners provided that:

(I) Prior to treatment, the items are managed in accordance with all applicable requirements of Division 335-14; and

(II) The items are deployed using a method approved by the automotive industry or the manufacturer.

(xii) Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined 335-14-1-.02(1). Reverse distributors are subject to regulation under 335-14-7-.16 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(xiii) Recyclers of ignitable spent refrigerants subject to regulation under 335-14-7-.17.

3. Further exclusions.

(i) A person is not required to obtain a permit under 335-14-8 for treatment or containment activities taken during immediate response to any of the following situations:

(I) A discharge of a hazardous waste;

(II) An imminent and substantial threat of a discharge of hazardous waste;

(III) A discharge of a material which, when discharged, becomes a hazardous waste; or

(IV) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in 335-14-1-.02.

(ii) Transporters are not required to obtain a permit in accordance with 335-14-8 in order to provide emergency transportation from cleanup of a discharge under 335-14-8-.01(1)(c)3(i).

(iii) In the case of emergency responses involving military munitions, the responding military emergency response specialist’s organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(iv) Any person who continues or initiates hazardous waste treatment, containment or transportation activities after the immediate response is over is subject to all applicable requirements of 335-14-8 for those activities.

(v) A person who receives hazardous waste from off-site for the purpose of reclamation/recycling in a unit or process which is exempted from regulation pursuant to 335-14-2-.01(6) is not required to obtain a permit under 335-14-8 for storage of the waste prior to introduction into the exempt reclamation/ recycling process provided that:

(I) The hazardous waste is introduced into the exempt process within three days of receipt at the facility; and

(II) The hazardous waste is managed in containers, tanks, or containment buildings and the owner/operator complies with all applicable requirements of 335-14-6-.02, 335-14-6-.03, 335-14-6-.04, 335-14-6-.05, 335-14-6-.07(2), 335-14-6-.07(5), 335-14-6-.09, 335-14-6-.10, 335-14-6-.27, 335-14-6-.28, 335-14-6-.29, and 335-14-6-.30.

4. Permits for less than an entire facility. The Department may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The Department may issue or deny a permit for a particular unit(s) at a facility without affecting the interim status permit(s) for other units at the facility.

5. Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under 335-14-6 standards must obtain a post-closure permit unless they can demonstrate to the Department that the closure met the standards for closure by removal or decontamination in 335-14-5-.11(9), 335-14-5-.13(11)(e), or 335-14-5-. 12(9), respectively. The demonstration may be made in the following ways:

(i) If the owner/operator has submitted a Part B application for a post-closure permit, the owner/ operator may request a determination, based on information contained in the application, that 335-14-5 closure by removal standards were met. If the Department believes that 335-14-5 standards were met, the Department will notify the public of this proposed decision, allow for public comment, and

reach a final determination according to the procedures in 335-14-8-.01(1)(c)6.

(ii) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the Department for a determination that a post-closure permit is not required because the closure met the applicable 335-14-5 closure standards.

(I) The petition must include data demonstrating that closure by removal or decontamination standards were met or exceeded under the applicable 335-14-5 closure-by-removal standard.

(II) The Department shall approve or deny the petition according to the procedures outlined in 335-14-8-.01(1)(c)6.

6. Procedures for closure equivalency determination.

(i) If a facility owner/operator seeks an equivalency demonstration under 335-14-8-.01(1)(c)5., the Department will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within 30 days from the date of the notice. The Department will also, in response to a request or at its own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the 335-14-6 closure to a 335-14-5 closure. The Department will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.)

(ii) The Department will determine whether the Chapter 335-14-6 closure met 335-14-5 closure by removal or decontamination requirements within 90 days of its receipt. If the Department finds that the closure did not meet the applicable 335-14-5 standards, it will provide the owner/operator with a written statement of the reasons why the closure failed to meet 335-14-5 standards. The owner/operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Department will review any additional information submitted and make a final determination within 60 days.

(iii) If the Department determines that the facility did not close in accordance with 335-14-5 closure by removal standards, the facility is subject to post-closure permitting requirements.

7. Enforceable documents for post-closure care. At the Department's discretion, an owner or operator may obtain, an enforceable document for post-closure care imposing the requirements of 335-14-6-.07(12). "Enforceable document" means an order, a plan, or other document issued, or approved, by EPA or the Department under an authority that meets the requirements of 40 CFR 271.16(e) including, but not limited to, a corrective action order issued by EPA or the Department under Section 3008(h) of RCRA, a CERCLA remedial action, or a closure or post-closure plan.

(2) [Reserved]

(3) Considerations under federal law. The following is a list of Federal laws that may apply to the issuance of permits under these Rules. When any of these laws is applicable, its procedures must be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also must be followed:

(a) The Wild and Scenic Rivers Act, 16 U.S.C. 1273 et seq.

(b) The National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq.

(c) The Endangered Species Act, 16 U.S.C. 1531 et seq.

(d) The Coastal Zone Management Act, 16 U.S.C. 661 et seq.

(4) Effect of permit.

(a)1. Compliance with an AHWMMA permit during its term constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA except for those requirements not included in the permit which:

(i) Become effective by statute;

(ii) Are promulgated under 335-14-9 restricting the placement of hazardous wastes in or on the land;

(iii) Are promulgated under 335-14-5 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs,

monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of 335-14-8-.04; or

(iv) Are promulgated under 335-14-6-.27 or 335-14-6-.28 limiting air emissions.

2. A permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in 335-14-8-.04(2) and 335-14-8-.04(4), or the permit may be modified up on the request of the permittee as set forth in 335-14-8-.04(2)(a)3.(ii).

(b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of Federal, State of Alabama or local laws or regulations.

(5) Effect of non-compliance.

(a) Substantial non-compliance, as determined by the Department, of another facility within the State of Alabama owned or operated by the permittee requesting reissuance of a permit, will be grounds for denial of permit reissuance until such non-compliance is corrected.

(b) A determination may be made by the Department to deny a permit application if the applicant operates other permitted facilities within the State of Alabama which are in substantial non-compliance, as determined by the Department, until such non-compliance is corrected or if the Department determines that a permit that results in compliance with applicable hazardous waste standards could not be issued or, if issued, could not be complied with.

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335-14-8-.02 Permit Application - Treatment, Storage And Disposal Facilities.

(1) General application requirements.

(a) Permit application. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Department as described in 335-14-8-.02(1) and 335-14-8-.07(1) through (4). Persons currently authorized with interim status shall apply for permits when required by the Department. Procedures for applications, issuance and administration of emergency permits are found exclusively in 335-14-8-.06(1). Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in 335-14-8-.06(4).

(b) Who applies? When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that the owner must also sign the permit application.

(c) Completeness. The Department shall not issue a permit before receiving a complete application for a permit except for emergency permits. An application for a permit is complete when the Department receives an application form and any supplemental information which are completed to its satisfaction. An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in 335-14-8-.02(1)(j). The Department may deny a permit for the active life of a hazardous waste management facility or unit before receiving a complete application for a permit.

(d) Information requirements. All permit applicants shall provide the information set forth in 335-14-8-.02(4) and the applicable provisions in 335-14-8-.02(5) through (19).

(e) Existing HWM facilities and interim status qualifications.

1. Owners and operators of existing hazardous waste management facilities or of hazardous waste management facilities in existence on the effective date of statutory or regulatory amendments under the AHWMMA that render the facility subject to the requirement to have an AHWMMA Permit must submit Part A of their permit application not later than:

(i) Six months after the date of publication of regulations which first require them to comply with the standards set forth in Chapters 335-14-5 or 335-14-6; or

(ii) Thirty days after the date they first become subject to the standards set forth in 335-14-5 or 335-14-6, whichever first occurs.

(iii) For generators generating greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and treats, stores, or disposes of these wastes on-site, by March 24, 1987.

2. At any time the owner and operator of an existing HWM facility may be required to submit Part B of their permit application. Any owner or operator will be allowed 180 days from the date of request to submit Part B of the permit application. Any owner or operator of an existing HWM facility may submit Part B of the permit application at any time.

3. Failure to submit a complete Part B permit application within 180 days after a request from the Department is grounds for termination of the facility's Interim Status.

(f) New HWM facilities.

1. Except as provided in 335-14-8-.02(1)(f)3., no person shall begin physical construction of a new HWM facility without having submitted Part A and Part B of the permit application and having received a finally effective AHWMMA permit.

2. An application for a permit for a new HWM facility may be filed any time after the promulgation of those standards in 335-14-5 applicable to such facility.

3. Notwithstanding 335-14-8-.02(1)(f)1., a person may construct a facility for the incineration of polychlorinated biphenyls pursuant to an approval issued by the EPA Regional Administrator under Section (6)(e) of the Toxic Substances Control Act and any person owning or

operating such a facility may, at any time after construction or operation of such facility has begun, file an application for a AHWMMA permit to incinerate hazardous waste authorizing such facility to incinerate waste identified or listed under Subtitle C of RCRA.

(g) Updating permit applications.

1. If any owner or operator of a HWM facility has filed Part A of a permit application and has not yet filed Part B, the owner or operator shall file an amended Part A application:

(i) No later than the effective date of changes to 335-14-2 listing or identifying additional wastes as hazardous if the facility is treating, storing, or disposing of the wastes newly listed or identified; or

(ii) As necessary to comply with 335-14-8-.07(3) for changes during interim status.

2. The owner or operator of a facility who fails to comply with the updating requirements of 335-14-8-.02(1)(g)1. does not receive an Interim Status Permit as to the wastes not covered by duly filed Part A applications.

(h) Reapplications. Any HWM facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Department; but in no case shall the Department grant permission for the application to be submitted later than the expiration date of the existing permit.

(i) Recordkeeping. Applicants shall keep records of all data used to complete applications and any supplemental information submitted under 335-14-8-.02(1)(d) and 335-14-8-.02(4) through (12) for a period of at least 3 years from the date the application is signed.

(j) Exposure Information.

1. After August 8, 1985, any Part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:

(i) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

(ii) The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under 335-14-8-.02(1)(j)1.(i); and

(iii) The potential magnitude and nature of the human exposure resulting from such releases.

2. By August 8, 1985, owners and operators of a landfill or a surface impoundment who have already submitted a Part B application must submit the exposure information required in 335-14-8-.02(1)(j)1.

(k) The Department may require a permittee or an applicant to submit information in order to establish permit conditions under 335-14-8-.03(3)(b)2. and 335-14-8-.05(1)(d).

(2) Signatories to permit applications and reports.

(a) All permit applications shall be signed as follows:

1. For a corporation, the application shall be signed by a responsible corporate officer. For the purpose of 335-14-8-.02(2), a responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy making or decision making functions for the corporation; or

(ii) The manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. For a partnership or sole proprietorship, the application shall be signed by a general partner or the proprietor, respectively; or

3. For a municipality, State of Alabama, Federal, or other public agency, the application shall be signed by either a principal executive officer or ranking elected official. For purposes of 335-14-8-.02(2), a principal executive officer of a Federal Agency includes:

(i) The chief executive officer of the agency, or

(ii) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g. Regional Administrator of EPA).

(b) All reports required by permits and other information requested by the Department shall be signed by a person described in 335-14-8-.02(2)(a), or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described in 335-14-8-.02(2)(a);

2. The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

3. The written authorization is submitted to the Department.

(c) If an authorization under 335-14-8-.02(b) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of 335-14-8-.02(2)(b) must be submitted to the Department prior to or together with any reports, information, or application to be signed by an authorized representative.

(d)1. Any person signing a document under 335-14-8-.02(2)(a) or (b) must make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. [Reserved]

(3) Confidentiality of information.

(a) An applicant may claim information submitted as confidential if the information is protectable under Code of Ala. 1975, §22-30-18, as amended. The term "trade secret" as used in §22-30-18 is defined in Code of Ala. 1975, §22-30-3(12).

(b) Claims of confidentiality for the name and address of any permit applicant or permittee will be denied.

(4) Contents of Part A of the permit application. Part A of the permit application shall include the following information:

(a) The activities conducted by the applicant which require it to obtain a hazardous waste facility permit.

(b) Name, mailing address, and location, including latitude and longitude of the facility for which the application is submitted.

(c) Up to four SIC codes which best reflect the principal products or services provided by the facility.

(d) The operator's name, address, telephone number, ownership status, and status as Federal, State of Alabama, private, public, or other entity.

(e) The name, address, and phone number of the owner of the facility.

(f) Whether the facility is located on Indian lands.

(g) An indication of whether the facility is new or existing and whether it is a first or revised application.

(h) For existing facilities:

1. A scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas;

2. Photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas.

(i) A description of the processes to be used for treating, storing, and disposing of hazardous waste, and the design capacity of these items.

(j) A specification of the hazardous wastes listed or designated under 335-14-2 to be treated, stored, or disposed of at the facility, an estimate of the quantity of such wastes

to be treated, stored, or disposed annually, and a general description of the processes to be used for such wastes.

(k) A listing of all permits or construction approvals received or applied for under any programs administered by the Department or any of the following programs:

1. Hazardous Waste Management program under RCRA.

2. UIC program under the SDWA.

3. NPDES program under the CWA.

4. Prevention of Significant Deterioration (PSD) program under the Clean Air Act.

5. Nonattainment program under the Clean Air Act.

6. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.

7. Ocean dumping permits under the Marine Protection Research and Sanctuaries Act.

8. Dredge or fill permits under Section 404 of the CWA.

9. Other relevant environmental permits.

(l) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within 1/4 mile of the facility property boundary.

(m) A brief description of the nature of the business.

(n) For hazardous debris, a description of the debris category(ies) and containment category(ies) to be treated, stored, or disposed of at the facility.

(5) Contents of Part B: General requirements.

(a) Part B of the permit application consists of the general information requirements of 335-14-8-.02(5), and the specific information requirements in 335-14-8-.02(5) through (19) applicable to the facility. The Part B information requirements presented in 335-14-8-.02(5) through (19) reflect the standards promulgated in 335-14-5. These information

requirements are necessary in order for the Department to determine compliance with the 335-14-5 standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in Part B can not be provided to the extent required, the Department may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the Department and signed in accordance with requirements in 335-14-8-.02(2). As discussed in 335-14-1-.01(1)(e), certain technical data, such as design drawings and specifications, engineering studies, geological interpretations, geological cross-sections, geological profiles, and survey plats involve the practice of engineering, land surveying, and/or geology and must be certified by a qualified Professional Engineer, a professional land surveyor, and/or a licensed professional geologist, as applicable. For post-closure permits, only the information specified in 335-14-8-.02(19) is required in Part B of the permit application.

(b) General information requirements. The following information is required for all HWM facilities, except as 335-14-5-.01(1) provides otherwise:

1. A general description of the facility.

2. Chemical and physical analyses of the hazardous waste and hazardous debris to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with 335-14-5.

3. A copy of the waste analysis plan required by 335-14-5-.02(4)(b) and, if applicable, 335-14-5-.02(4)(c).

4. A description of the security procedures and equipment required by 335-14-5-.02(5), or a justification demonstrating the reasons for requesting a waiver of this requirement.

5. A copy of the general inspection schedule required by 335-14-5-.02(6)(b). Include where applicable, as part of the inspection schedule, specific requirements in 335-14-5-.09(5), 335-14-5-.10(4)(i), 335-14-5-.10(6), 335-14-5-.11(7), 335-14-5-.12(5), 335-14-5-.13(4), 335-14-5-.14(4), 335-14-5-.15(8), 335-14-5-.19(1) and .19(2), 335-14-5-.23(4), 335-14-5-.24(3), 335-14-5-.27(4), 335-14-5-.28(3), 335-14-5-.28(4), 335-14-5-.28(9), 335-14-5-.29(5), 335-14-5-.29(6), 335-14-5-.29(7), 335-14-5-.29(9), 335-14-5-.30(2), and 335-14-7-.08(3) [40 CFR 266.102(e)(8)].

6. A justification of any request for a waiver(s) of the preparedness and prevention requirements of rule 335-14-5-.03.

7. A copy of the contingency plan required by rule 335-14-5-.04. [Note: Include, where applicable, as part of the contingency plan, specific requirements in 335-14-5-.11(8), 335-14-5-.12(6), and 335-14-5-.10(11).]

8. A description of procedures, structures, or equipment used at the facility to:

(i) Prevent hazards in unloading operations (for example, ramps, special forklifts);

(ii) Prevent run-off from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(iii) Prevent contamination of water supplies;

(iv) Mitigate effects of equipment failure and power outages;

(v) Prevent undue exposure of personnel to hazardous waste (for example, protective clothing); and

(vi) Prevent releases to atmosphere.

9. A description of precautions to prevent accidental ignition or reaction of ignitable, reactive or incompatible wastes as required to demonstrate compliance with 335-14-5-.02(8), including documentation demonstrating compliance with 335-14-5-.02(8)(c).

10. Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

11. Facility location information:

(i) The owner or operator of a new facility must identify the political jurisdiction (e.g., county, township, or election district) in which the facility is proposed to be located.

(ii) [Reserved]

(iii) Owners and operators of all facilities shall provide an identification of whether the facility is

located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.

(iv) Owners and operators of facilities located in the 100-year floodplain must provide the following information:

(I) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as consequence of a 100-year flood.

(II) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout.

(III) If applicable, and in lieu of 335-14-8-.02(5)(b)11.(iv)(I) and (b)11.(iv)(II), a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including: I. Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility. II. A description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the regulations under 335-14-5 through 335-14-8. III. The planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use. IV. The potential for accidental discharges of the waste during movement.

(v) Existing facilities NOT in compliance with 335-14-5-.02(9)(a) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

12. An outline of both the introductory and continuing training programs by owners or operators to prepare

persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with 335-14-5-.02(7). A brief description of how training will be designed to meet actual job tasks in accordance with requirements in 335-14-5-.02(7)(a)3.

13. A copy of the closure plan and, where applicable, the post-closure plan required by 335-14-5-.07(3), 335-14-5-.07(9), and 335-14-5-.10(8). Include, where applicable, as part of the plans, specific requirements in 335-14-5-.09(9), 335-14-5-.10(8), 335-14-5-.11(9), 335-14-5-.12(9), 335-14-5-.13(11), 335-14-5-.14(11), 335-14-5-.15(12), 335-14-5-.19(1) and (2), 335-14-5-.23(6), 335-14-5-.24(2), 335-14-5-.24(4), 335-14-5-.30(3), and 335-14-7-.08(3) [40 CFR 266.102(e)(11)].

14. For hazardous waste disposal units that have been closed, documentation that notices required under 335-14-5-.07(10) have been filed.

15. The most recent closure cost estimate for the facility prepared in accordance with 335-14-5-.08(3) and a copy of the documentation required to demonstrate financial assurance under 335-14-5-.08(4). For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

16. Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with 335-14-5-.08(5) plus a copy of the documentation required to demonstrate financial assurance under 335-14-5-.08(6). For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

17. Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of 335-14-5-.08(8). For a new facility, documentation showing the amount of insurance meeting the specification of 335-14-5-.08(8)(a) and, if applicable, 335-14-5-.08(8)(b), that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in 335-14-5-.08(8)(c).

18. [Reserved]

19. A topographic map showing a distance of 1000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of HWM facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

(i) Map scale and date;

(ii) 100 year floodplain area;

(iii) Surface waters including intermittent streams;

(iv) Surrounding land uses (residential, commercial, agricultural, recreational);

(v) A wind rose (i.e., prevailing windspeed and direction);

(vi) Orientation of the map (north arrow);

(vii) Legal boundaries of the HWM facility site;

(viii) Access control (fences, gates);

(ix) injection and withdrawal wells both on-site and off-site;

(x) Buildings; treatment, storage or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

(xi) Barriers for drainage or flood control; and

(xii) Location of operational units within the HWM facility site, where hazardous waste is (or will be) treated, stored, or disposed (include equipment cleanup areas).

(xiii) Locations of all SWMUs and AOCs.

20. Applicants may be required to submit such information as may be necessary to enable the Department to carry out its duties under other laws as required in 335-14-8-.01(3).

21. For land disposal facilities; if a case-by-case extension has been approved under 335-14-9-.01(5) or a petition has been approved under 335-14-9-.01(6), a copy of the notice of approval for the extension or petition is required.

22. A summary of the pre-application meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under 335-14-8-.08(1)(a)3.

(c) Additional information requirements. The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in 335-14-5-.06(1)(b):

1. A summary of the groundwater monitoring data obtained during the interim status period under 335-14-6-.06(1) through (5) where applicable, or the previous permit period if the application is for permit renewal;

2. Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including groundwater flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

3. On the topographic map required under 335-14-8-.02(5)(b)19., a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under 335-14-5-.06(6), the proposed location of groundwater monitoring wells as required under 335-14-5-.06(8), and, to the extent possible, the information required in 335-14-8-.02(5)(c)2.

4. A description of any plume of contamination that has entered the groundwater from a regulated unit at the time that the application was submitted that:

(i) Delineates the extent of the plume on the topographic map required under 335-14-8-.02(5)(b)19.;

(ii) Identifies the concentration of each 335-14-5-Appendix IX constituent throughout the plume or identifies the maximum concentrations of each 335-14-5-Appendix IX constituent in the plume;

5. Detailed plans and an engineering report describing the proposed groundwater monitoring program to be implemented to meet the requirements of 335-14-5-.06(8);

6. If the presence of hazardous constituents has not been detected in the groundwater at the time of permit application, the owner or operator must submit sufficient information, supporting data and analyses to establish a detection monitoring program which meets the requirements of 335-14-5-.06(9). This submission must address the following items specified under 335-14-5-.06(9):

(i) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the groundwater;

(ii) A proposed groundwater monitoring system;

(iii) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(iv) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating groundwater monitoring data;

7. If the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of 335-14-5-.06(10). Except as provided in 335-14-5-.06(9)(g)5., the owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of 335-14-5-.06(11), unless the owner or operator obtains written authorization in advance from the Department to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with 335-14-5-.06(10), the owner or operator must address the following items:

(i) A description of the wastes previously handled at the facility;

(ii) A characterization of the contaminated groundwater, including concentrations of hazardous constituents;

(iii) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with 335-14-5-.06(8) and (10);

(iv) Proposed concentration limits for each hazardous constituent, based on the criteria set forth in 335-14-5-.06(5)(a), including a justification for establishing any alternate concentration limits;

(v) Detailed plans and an engineering report describing the proposed groundwater monitoring system, in accordance with the requirements of 335-14-5-.06(8); and

(vi) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating groundwater monitoring data; and

8. If hazardous constituents have been measured in the groundwater which exceed the concentration limits established under 335-7-2-.03(1), 335-7-2-.04(1), or Table 1 of 335-14-5-.06(5), or if groundwater monitoring conducted at the time of permit application under 335-14-6-.06(1) through (5) at the waste boundary indicates the presence of hazardous constituents from the facility in groundwater over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of 335-14-5-.06(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the Department that alternate concentration limits will protect human health and the environment after considering the criteria listed in 335-14-5-.06(5)(b). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of 335-14-5-.06(10) and 335-14-8-.02(5)(c)6. To demonstrate compliance with 335-14-5-.06(11), the owner or operator must address, at a minimum, the following items:

(i) A characterization of the contaminated groundwater, including concentrations of hazardous constituents;

(ii) The concentration limit for each hazardous constituent found in the groundwater as set forth in 335-14-5-.06(5);

(iii) Detailed plans and an engineering report describing the corrective action to be taken; and

(iv) A description of how the groundwater monitoring program will demonstrate the adequacy of the corrective action.

(v) The permit may contain a schedule for submittal of the information required in 335-14-8-.02(5)(c)8. (iii) and (iv) provided the owner or operator obtains written authorization from the Department prior to submittal of the complete permit application.

(d) Information requirements for solid waste management units.

1. The following information is required for each solid waste management unit at a facility seeking a permit:

(i) The location of the unit on the topographic map required under 335-14-8-.02(5)(b)19.

(ii) Designation of type of unit.

(iii) General dimensions and structural description (supply any available drawings).

(iv) When the unit was operated.

(v) Specification of all wastes that have been managed at the unit, to the extent available.

2. The owner or operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of hazardous wastes or hazardous constituents from such unit or units.

3. The owner/operator must conduct and provide the results of sampling and analysis of groundwater, land surface, and subsurface strata, surface water, or air which may include the installation of wells, where the Department ascertains it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

4. The owner or operator must provide documentation of compliance with the requirements of the Uniform Environmental Covenants Program in ADEM Admin. Code div. 335-5 for all solid waste management units and areas of concern (including regulated units) for which remediation does not achieve the standard of unrestricted use.

(6) Specific Part B information requirements for containers. Except as otherwise provided in 335-14-5-.09(1), owners or operators of facilities that store containers of hazardous waste must provide the following additional information:

(a) A description of the containment system to demonstrate compliance with 335-14-5-.09(6). Show at least the following:

1. Basic design parameters, dimensions, and materials of construction;

2. How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system;

3. Capacity of the containment system relative to the number and volume of containers to be stored;

4. Provisions for preventing or managing run-on; and

5. How accumulated liquids can be analyzed and removed to prevent overflow.

(b) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with 335-14-5-.09(6)(c), including:

1. Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

2. A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids.

(c) Sketches, drawings, or data demonstrating compliance with 335-14-5-.09(7) (location of buffer zone and containers holding ignitable or reactive wastes) and 335-14-5-.09(8)(c) (location of incompatible wastes), where applicable.

(d) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with 335-14-5-.09(8)(a) and (b) and 335-14-5-.02(8)(b) and (c).

(e) Information on air emission control equipment as required in 335-14-8-.02(18).

(7) Specific Part B information requirements for tank systems. Except as otherwise provided in 335-14-5-.10(1), owners and operators of facilities that use tanks to store or treat hazardous waste must provide the following additional information:

(a) A written assessment that is reviewed and certified by a qualified Professional Engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under 335-14-5-.10(2) and 335-14-5-.10(3);

(b) Dimensions and capacity of each tank;

(c) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(d) A diagram of piping, instrumentation, and process flow for each tank system;

(e) A description of materials and equipment used to provide external corrosion protection, as required under 335-14-5-.10(3)(a)3.(ii);

(f) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with 335-14-5-.10(3)(b), (c), (d), and (e);

(g) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of 335-14-5-.10(4)(a), (b), (c), (d), (e), and (f);

(h) For tank systems for which a variance from the requirements of 335-14-5-.10(4) is sought (as provided by 335-14-5-.10(4)(g)):

1. Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water during the life of the facility, or

2. A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.

(i) Description of controls and practices to prevent spills and overflows, as required under 335-14-5-.10(5)(b).

(j) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of 335-14-5-.10(9) and 335-14-5-.10(10); and

(k) Information on air emission control equipment as required in 335-14-8-.02(18).

(8) Specific Part B information requirements for surface impoundments. Except as otherwise provided in 335-14-5-.01(1), owners and operators of facilities that store, treat or dispose of hazardous waste in surface impoundments must provide the following additional information:

(a) A list of the hazardous wastes placed or to be placed in each surface impoundment;

(b) Detailed plans and an engineering report describing how the surface impoundment is designed and is or will be constructed, operated, and maintained to meet the requirements of 335-14-5-.02(10), 335-14-5-.11(2), 335-14-5-.11(3), and 335-14-5-.11(4), addressing the following items;

1. The liner system (except for an existing portion of a surface impoundment). If an exemption from the requirement for a liner is sought as provided by 335-14-5-.11(2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time;

2. The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of 335-14-5-.11(2)(c). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by 335-14-5-.11(2)(d), (e), or (f), submit appropriate information;

3. If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

4. The construction quality assurance (CQA) plan if required under 335-14-5-.02(10);

5. Proposed action leakage rate, with rationale, if required under 335-14-5-.11(3), and response action plan, if required under 335-14-5-.11(4);

6. Prevention of overtopping; and

7. Structural integrity of dikes.

(c) A description of how each surface impoundment, including the double liner system, leak detection system, cover system, and appurtenances for control of overtopping, will be inspected in order to meet the requirements of 335-14-5-.11(7)(a), (b), and (d). This information must be included in the inspection plan submitted under 335-14-8-.02(8)(b)5.;

(d) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under 335-14-5-.11(7)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(e) A description of the procedures to be used for removing a surface impoundment from service, as required under 335-14-5-.11(8)(b) and (c). This information should be included in the contingency plan submitted under 335-14-8-.02(5)(b)7.;

(f) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under 335-14-5-.11(9)(a)1. For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how 335-14-5-.11(9)(a)2. and (9)(b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under 335-14-8-.02(5)(b)13.;

(g) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how 335-14-5-.11(10) will be complied with;

(h) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how 335-14-5-.11(11) will be complied with;

(i) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026 and F027 describing how the surface impoundment is or will be designed, constructed, operated and maintained to meet the requirements of 335-14-5-.11(12). This submission must address the following items as specified in 335-14-5-.11(12):

1. The volume, physical and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2. The attenuative properties of underlying and surrounding soils or other materials;

3. The mobilizing properties of other materials co-disposed with these wastes; and

4. The effectiveness of additional treatment, design, or monitoring techniques.

(j) Information on air emission control equipment as required in 335-14-8-.02(18).

(9) Specific Part B information requirements for waste piles. Except as otherwise provided in 335-14-5-.01(1), owners and operators of facilities that store or treat hazardous waste in waste piles must provide the following information:

(a) A list of hazardous wastes placed or to be placed in each waste pile;

(b) If an exemption is sought to 335-14-5-.12(2) and 335-14-5-.06 as provided by 335-14-5-.12(1)(c) or 335-14-5-.06(1)(b)2., an explanation of how the standards of 335-14-5-.12(1)(c) will be complied with or detailed plans and an engineering report describing how the requirements of 335-14-5-.06(1)(b)2. will be met;

(c) Detailed plans and an engineering report describing how the waste pile is designed and is or will be constructed, operated, and maintained to meet the requirements of 335-14-5-.02(10), 335-14-5-.12(2), 335-14-5-.12(3), and 335-14-5-.12(4), addressing the following items:

1.(i) The liner system (except for an existing portion of a waste pile), if the waste pile must meet the requirements of 335-14-5-.12(2)(a). If an exemption from the requirement for a liner is sought as provided by 335-14-5-.12(2)(b), submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time;

(ii) The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of 335-14-5-.12(2)(c). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by 335-14-5-.12(2)(d), (e), or (f), submit appropriate information;

(iii) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(iv) The construction quality assurance (CQA) plan if required under 335-14-5-.02(10);

(v) Proposed action leakage rate, with rationale, if required under 335-14-5-.12(3), and response action plan, if required under 335-14-5-.12(4);

2. Control of run-on;

3. Control of run-off;

4. Management of collection and holding units associated with run-on and run-off control systems; and

5. Control of wind dispersal of particulate matter, where applicable;

(d) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of 335-14-5-.12(5)(a), (b), and (c). This information must be included in the inspection plan submitted under 335-14-8-.02(5)(b)5.;

(e) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(f) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of 335-14-5-.12(7) will be complied with;

(g) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how 335-14-5-.12(8) will be complied with;

(h) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under 335-14-5-.12(9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how 335-14-5-.14(11)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under 335-14-8-.02(5)(b)13.; and

(i) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026 and F027 describing how a waste pile that is not enclosed (as defined in 335-14-5-.12(1)(c)) is or will be designed, constructed, operated and maintained to meet the requirements of 335-14-5-.12(10). This submission must address the following items as specified in 335-14-5-.12(10):

1. The volume, physical, and chemical characteristics of the wastes to be disposed in the waste pile, including

their potential to migrate through soil or to volatilize or escape into the atmosphere;

2. The attenuative properties of underlying and surrounding soils or other materials;

3. The mobilizing properties of other materials co-disposed with these wastes; and

4. The effectiveness of additional treatment, design or monitoring techniques.

(10) Specific Part B information requirements for incinerators. Except as 335-14-5-.15(1) and 335-14-8-.02(10)(e) provides otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of 335-14-8-.02(10)(a), (b), or (c).

(a) When seeking an exemption under 335-14-5-.15(1)(b) or (c) (Ignitable, corrosive, or reactive wastes only):

1. Documentation that the waste is listed as a hazardous waste in 335-14-2-.04, solely because it is ignitable (Hazard Code I) or corrosive (Hazard Code C) or both; or

2. Documentation that the waste is listed as a hazardous waste in 335-14-2-.04, solely because it is reactive (Hazard Code R) for characteristics other than those listed in 335-14-2-.03(4)(a)4. and (4)(a)5., and will not be burned when other hazardous wastes are present in the combustion zone; or

3. Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability, corrosivity or both, as determined by the tests for characteristics of hazardous waste under 335-14-2-.03; or

4. Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in 335-14-2-.03(4)(a)1., 2., 3., 6., 7., or 8., and that it will not be burned when other hazardous wastes are present in the combustion zone; or

(b) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with 335-14-8-.06(2);

(c) In lieu of a trial burn, the applicant may submit the following information:

1. An analysis of each waste or mixture of wastes to be burned including:

(i) Heat value of the waste in the form and composition in which it will be burned;

(ii) Viscosity (if applicable), or description of physical form of the waste;

(iii) An identification of any hazardous organic constituents listed in 335-14-2 - Appendix VIII, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in 335-14-2 - Appendix VIII, which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on appropriate analytical techniques.

(iv) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by appropriate analytical methods; and

(v) A quantification of those hazardous constituents in the waste which may be designated as POHCs based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in 335-14-5-.15(4);

2. A detailed engineering description of the incinerator, including:

(i) Manufacturer's name and model number of incinerator;

(ii) Type of incinerator;

(iii) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(iv) Description of auxiliary fuel system (type/ feed);

(v) Capacity of prime mover;

(vi) Description of automatic waste feed cutoff system(s);

(vii) Stack gas monitoring and pollution control monitoring system;

(viii) Nozzle and burner design;

(ix) Construction materials; and

(x) Location and description of temperature, pressure, and flow indicating devices and control devices;

3. A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in 335-14-8-.02(10)(c)1. This analysis should specify the POHCs which the applicant has identified in the waste for which a permit is sought, and any differences from the POHCs in the waste for which burn data are provided.

4. The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

5. A description of the results submitted from any previously conducted trial burn(s) including:

(i) Sampling and analysis techniques used to calculate performance standards in 335-14-5-.15(4); and

(ii) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

6. The expected incinerator operation information to demonstrate compliance with 335-14-5-.15(4) and (6) including:

(i) Expected carbon monoxide (CO) level in the stack exhaust gas;

(ii) Waste feed rate;

(iii) Combustion zone temperature;

(iv) Indication of combustion gas velocity;

(v) Expected stack gas volume, flow rate, and temperature;

(vi) Computed residence time for waste in the combustion zone;

(vii) Expected hydrochloric acid removal efficiency;

(viii) Expected fugitive emissions and their control procedures; and

(ix) Proposed waste feed cut-off limits based on the identified significant operating parameters.

7. Such supplemental information as the Department finds necessary to achieve the purposes of 335-14-8-.02(10(c);

8. Waste analysis data, including that submitted in 335-14-8-.02(10)(c)1., sufficient to allow the Department to specify as permit Principal Organic Hazardous Constituents (permit POHCs) those constituents for which destruction and removal efficiencies will be required.

(d) The Department may approve a permit application without a trial burn if it finds that:

1. The wastes are sufficiently similar; and

2. The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under 335-14-5-.15(6)) operating conditions that will ensure that the performance standards in 335-14-5-.15(4) will be met by the incinerator.

(e) When an owner or operator demonstrates compliance with the air emission standards and limitations in 335-3-11-.06(56) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of 335-14-8-.02 do not apply, except those provisions the Department determines are necessary to ensure compliance with 335-14-5-.15(6)(a) and (6)(c) if the owner or operator elects to comply with 335-14-8-.15(1)(a)1.(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Department may apply the provisions of 335-14-8-.02, on a case-by-case basis, for purposes of information collection in accordance with 335-14-8-.02(10)(k) and 335-14-8-.03(3)(b)2.

(11) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in 335-14-5-.01(l), owners and operators of facilities that use land treatment to dispose of hazardous waste must provide the following additional information:

(a) A description of plans to conduct a treatment demonstration as required under 335-14-5-.13(3). The description must include the following information:

1. The wastes for which the demonstration will be made and the potential hazardous constituents in the waste;

2. The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

3. Any specific laboratory or field test that will be conducted, including:

(i) The type of test (e.g., column leaching, degradation);

(ii) Materials and methods, including analytical procedures;

(iii) Expected time for completion;

(iv) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(b) A description of a land treatment program, as required under 335-14-5-.13(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

1. The wastes to be land treated;

2. Design measures and operating practices necessary to maximize treatment in accordance with 335-14-5-.13(4)(a) including:

(i) Waste application method and rate;

(ii) Measures to control soil pH;

(iii) Enhancement of microbial or chemical reactions;

(iv) Control of moisture content;

3. Provisions for unsaturated zone monitoring, including:

(i) Sampling equipment, procedures, and frequency;

(ii) Procedures for selecting sampling locations;

(iii) Analytical procedures;

(iv) Chain of custody control;

(v) Procedures for establishing background values;

(vi) Statistical methods for interpreting results;

(vii) The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for such selection in 335-14-5-.13(9)(a);

4. A list of hazardous constituents reasonably expected to be in, or derived from the wastes to be land treated based on waste analysis performed pursuant to 335-14-5-.02(4);

5. The proposed dimensions of the treatment zone;

(c) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of 335-14-5-.13(4). This submission must address the following items:

1. Control of run-on;

2. Collection and control of run-off;

3. Minimization of run-off of hazardous constituents from the treatment zone;

4. Management of collection and holding facilities associated with run-on and run-off control systems;

5. Periodic inspection of the unit. This information should be included in the inspection plan submitted under 335-14-8-.02(5)(b)5.;

6. Control of wind dispersal of particulate matter, if applicable;

(d) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under 335-14-5-.13(7)(a) will be conducted including:

1. Characteristics of the food-chain crop for which the demonstration will be made;

2. Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

3. Procedures for crop growth, sample collection, sample analysis, and data evaluation;

4. Characteristics of the comparison crop including the location and conditions under which it was or will be grown;

(e) If food-chain crops are to be grown, and cadmium is present in the land-treated waste, a description of how the requirements of 335-14-5-.13(7)(b) will be complied with;

(f) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under 335-14-5-.13(11)(a)8. and (c)2. This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under 335-14-8-.02(5)(b)13.;

(g) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of 335-14-5-.13(12) will be complied with;

(h) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how 335-14-5-.13(13) will be complied with; and

(i) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of 335-14-5-.13(14). This submission must address the following items as specified in 335-14-5-.13(14):

1. The volume, physical, and chemical characteristics of the wastes including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2. The attenuative properties of underlying and surrounding soils or other materials;

3. The mobilizing properties of other materials co-disposed with these wastes; and

4. The effectiveness of additional treatment, design or monitoring techniques.

(12) Specific Part B information requirements for landfills. Except as otherwise provided in 335-14-5-.01(1), owners and operators of facilities that dispose of hazardous waste in landfills must provide the following information:

(a) A list of the hazardous wastes placed or to be placed in each landfill or landfill cell;

(b) Detailed plans and an engineering report describing how the landfill is designed and is or will be constructed, operated, and maintained to meet the requirements of 335-14-5-.02(10), 335-14-5-.14(2), 335-14-5-.14(3), and 335-14-5-.14(4), addressing the following items:

1.(i) The liner system (except for an existing portion of a landfill), if the landfill must meet the requirements of 335-14-5-.14(2)(a);

(ii) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of 335-14-5-.14(2)(b);

(iii) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(iv) The construction quality assurance (CQA) plan if required under 335-14-5-.02(10);

(v) Proposed action leakage rate, with rationale, if required under 335-14-5-.14(3), and response action plan, if required under 335-14-5-.14(5);

2. Control of run-on;

3. Control of run-off;

4. Management of collection and holding facilities associated with run-on and run-off control systems; and

5. Control of wind dispersal of particulate matter, where applicable;

(c) [Reserved]

(d) A description of how each landfill, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of 335-14-5-.14(4)(a), (b), and (c). This information must be included in the inspection plan submitted under 335-14-8-.02(5)(b)5.;

(e) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with 335-14-5-.14(11)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with 335-14-5-.14(11)(b). This information should be included in the closure and post-closure plans submitted under 335-14-8-.02(5)(b)13.;

(f) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of 335-14-5-.14(13) will be complied with;

(g) If incompatible wastes, or incompatible wastes and materials, will be landfilled, an explanation of how 335-14-5-.14(14) will be complied with;

(h) [Reserved]

(i) If containers of hazardous waste are to be landfilled, an explanation of how the requirements of 335-14-5-.14(16) or (17), as applicable, will be complied with; and

(j) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of 335-14-5-.14(18). This submission must address the following items as specified in 335-14-5-.14(18):

1. The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2. The attenuative properties of underlying and surrounding soils or other materials;

3. The mobilizing properties of other materials co-disposed with these wastes; and

4. The effectiveness of additional treatment, design or monitoring techniques.

(13) Specific Part B information requirements for boilers and industrial furnaces burning hazardous waste. When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations of 335-3-11-.06(56) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of 335-14-8-.02 do not apply, except those provisions the Department determines are necessary to ensure compliance with 335-14-7-.08 if the facility elects to comply with 335-14-8-.15(1)(a)1.(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Department may apply the provisions of 335-14-8-.02, on a case-by-case basis, for the purposes of information collection in accordance with 335-14-8-.02(l)(k) and 335-14-8-.03(3)(b)2.

(a) Trial burns

1. General. Except as provided below, owners and operators that are subject to the standards to control organic emissions provided by 335-14-7-.08(5), standards to control particulate matter provided by 335-14-7-.08(6), standards to control metals emissions provided by 335-14-7-.08(7), or standards to control hydrogen

chloride or chlorine gas emissions provided by 335-14-7-.08(8) must conduct a trial burn to demonstrate conformance with those standards and must submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with 335-14-8-.06(5).

(i) A trial burn to demonstrate conformance with a particular emission standard may be waived under provisions of 335-14-7-.08(5) through 335-14-7-.08(8) and 335-14-8-.02(13)(a)2. through (a)5.; and

(ii) The owner or operator may submit data in lieu of a trial burn, as prescribed in 335-14-8-.02(13)(a)6.

2. Waiver of trial burn for DRE.

(i) Boilers operated under special operating requirements. When seeking to be permitted under 335-14-7-.08(5)(a)4. and 335-14-7-.08(11) that automatically waive the DRE trial burn, the owner or operator of a boiler must submit documentation that the boiler operates under the special operating requirements provided by 335-14-7-.08(11).

(ii) Boilers and industrial furnaces burning low risk waste. When seeking to be permitted under the provisions for low risk waste provided by 335-14-7-.08(5)(a)5. and 335-14-7-.08(10)(a) that waive the DRE trial burn, the owner or operator must submit:

(I) Documentation that the device is operated in conformance with the requirements of 335-14-7-.08(10)(a)1.

(II) Results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in 335-14-2 - Appendix VIII, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on appropriate analytical techniques.

(III) Documentation of hazardous waste firing rates and calculations of reasonable, worst-case emission rates of each constituent identified in 335-14-8-.02(13)(a)2.(ii)(II) using procedures provided by 335-14-7-.08(10)(a)2.(ii).

(IV) Results of emissions dispersion modeling for emissions identified in 335-14-8-.02(13)(a)2.(ii)

(III) using modeling procedures prescribed by 335-14-7-.08(7)(h). The Department will review the emission modeling conducted by the applicant to determine conformance with these procedures. The Department will either approve the modeling or determine that alternate or supplementary modeling is appropriate.

(V) Documentation that the maximum annual average ground level concentration of each constituent identified in 335-14-8-.02(13)(a)2.(ii)(II) quantified in conformance with 335-14-8-.02(13)(a)2.(ii)(IV) does not exceed the allowable ambient level established in 335-14-7 - Appendices IV or V. The acceptable ambient concentration for emitted constituents for which a specific Reference Air Concentration has not been established in 335-14-7 - Appendix IV or Risk-Specific Dose has not been established in 335-14-7 - Appendix V is 0.1 micrograms per cubic meter, as noted in the footnote to 335-14-7 - Appendix IV.

3. Waiver of trial burn for metals. When seeking to be permitted under the Tier I (or adjusted Tier I) metals feed rate screening limits provided by 335-14-7-.08(7)(b) and (e) that control metals emissions without requiring a trial burn, the owner or operator must submit:

(i) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

(ii) Documentation of the concentration of each metal controlled by 335-14-7-.08(7)(b) or (e) in the hazardous waste, other fuels, and industrial furnace feedstocks, and calculations of the total feed rate of each metal;

(iii) Documentation of how the applicant will ensure that the Tier I feed rate screening limits provided by 335-14-7-.08(7)(b) or (e) will not be exceeded during the averaging period provided by that paragraph;

(iv) Documentation to support the determination of the terrain-adjusted effective stack height, good engineering practice stack height, terrain type, and land use as provided by 335-14-7-.08(7)(b)3. through (b)5.;

(v) Documentation of compliance with the provisions of 335-14-7-.08(7)(b)6., if applicable, for facilities with multiple stacks;

(vi) Documentation that the facility does not fail the criteria provided by 335-14-7-.08(7)(b)7. for eligibility to comply with the screening limits; and

(vii) Proposed sampling and metals analysis plan for the hazardous waste, other fuels, and industrial furnace feed stocks.

4. Waiver of trial burn for particulate matter. When seeking to be permitted under the low risk waste provisions of 335-14-7-.08(10)(b) which waives the particulate standard (and trial burn to demonstrate conformance with the particulate standard), applicants must submit documentation supporting conformance with 335-14-8-.02(13)(a)2.(ii) and (a)3.

5. Waiver of trial burn for HCl and Cl2. When seeking to be permitted under the Tier I (or adjusted Tier I) feed rate screening limits for total chloride and chlorine provided by 335-14-7-.08(8)(b)1. and (e) that control emissions of hydrogen chloride (HCl) and chlorine gas (Cl2) without requiring a trial burn, the owner or operator must submit:

(i) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

(ii) Documentation of the levels of total chloride and chlorine in the hazardous waste, other fuels, and industrial furnace feedstocks, and calculations of the total feed rate of total chloride and chlorine;

(iii) Documentation of how the applicant will ensure that the Tier I (or adjusted Tier I) feed rate screening limits provided by 335-14-7-.08(8)(b)1. or (e) will not be exceeded during the averaging period provided by that subparagraph;

(iv) Documentation to support the determination of the terrain-adjusted effective stack height, good engineering practice stack height, terrain type, and land use as provided by 335-14-7-.08(8)(b)3.;

(v) Documentation of compliance with the provisions of 335-14-7-.08(8)(b)4., if applicable, for facilities with multiple stacks;

(vi) Documentation that the facility does not fail the criteria provided by 335-14-7-.08(8)(b)3. for eligibility to comply with the screening limits; and

(vii) Proposed sampling and analysis plan for total chloride and chlorine for the hazardous waste, other fuels, and industrial furnace feedstocks.

6. Data in lieu of trial burn. The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with 335-14-7-.08(5) through 335-14-7-.08(8) and 335-14-8-.06(5) by providing the information required by 335-14-8-.06(5) from previous compliance testing of the device in conformance with 335-14-7-.08(4), or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by 335-14-8-.06(5) must be provided for both the similar device and the device to which the data is to be applied, and a comparison of the design and operating information must be provided. The Department shall approve a permit application without a trial burn if it finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar, and the data from other compliance tests, trial burns, or operational burns are adequate to specify (under 335-14-7-.08(3)) operating conditions that will ensure conformance with 335-14-7-.08(3)(c). In addition, the following information shall be submitted:

(i) For a waiver from any trial burn:

(I) A description and analysis of the hazardous waste to be burned compared with the hazardous waste for which data from compliance testing, or operational or trial burns are provided to support the contention that a trial burn is not needed;

(II) The design and operating conditions of the boiler or industrial furnace to be used, compared with that for which comparative burn data are available; and

(III) Such supplemental information as the Department finds necessary to achieve the purposes of 335-14-8-.02(13)(a).

(ii) For a waiver of the DRE trial burn, the basis for selection of POHCs used in the other trial or

operational burns which demonstrate compliance with the DRE performance standard in 335-14-7-.08(5)(a). This analysis should specify the constituents in 335-14-2 - Appendix VIII, that the applicant has identified in the hazardous waste for which a permit is sought, and any differences from the POHCs in the hazardous waste for which burn data are provided.

(b) Alternative HC limit for industrial furnaces with organic matter in raw materials. Owners and operators of industrial furnaces requesting an alternative HC limit under 335-14-7-.08(5)(f) shall submit the following information at a minimum:

1. Documentation that the furnace is designed and operated to minimize HC emissions from fuels and raw materials;

2. Documentation of the proposed baseline flue gas HC (and CO) concentration, including data on HC (and CO) levels during tests when the facility produced normal products under normal operating conditions from normal raw materials while burning normal fuels and when not burning hazardous waste;

3. Test burn protocol to confirm the baseline HC (and CO) level including information on the type and flow rate of all feed streams, point of introduction of all feed streams, total organic carbon content (or other appropriate measure of organic content) of all nonfuel feed streams, and operating conditions that affect combustion of fuel(s) and destruction of hydrocarbon emissions from nonfuel sources;

4. Trial burn plan to:

(i) Demonstrate that flue gas HC (and CO) concentrations when burning hazardous waste do not exceed the baseline HC (and CO) level; and

(ii) Identify the types and concentrations of organic compounds listed in 335-14-2 - Appendix VIII, that are emitted when burning hazardous waste in conformance with procedures prescribed by the Department;

5. Implementation plan to monitor overtime changes in the operation of the facility that could reduce the baseline HC level and procedures to periodically confirm the baseline HC level; and

6. Such other information as the Department finds necessary to achieve the purposes of 335-14-8-.02(13)(b).

(c) Alternative metals implementation approach. When seeking to be permitted under an alternative metals implementation approach under 335-14-7-.08(7)(f), the owner or operator must submit documentation specifying how the approach ensures compliance with the metals emissions standards of 335-14-7-.08(7)(c) or (d) and how the approach can be effectively implemented and monitored. The owner or operator shall provide any other information that the Department finds necessary to achieve the purposes of 335-14-8-.02(13)(c).

(d) Automatic waste feed cutoff system. Owners and operators shall submit information describing the automatic waste feed cutoff system, including any pre-alarm systems that may be used.

(e) Direct transfer. Owners and operators that use direct transfer operations to feed hazardous waste from transport vehicles (containers, as defined in 335-14-7-.08(12)) directly to the boiler or industrial furnace shall submit information supporting conformance with the standards for direct transfer provided by 335-14-7-.08(12).

(f) Residues. Owners and operators that claim that their residues are excluded from regulations under the provisions of 335-14-7-.08(13) must submit information adequate to demonstrate conformance with those provisions.

(14) Specific Part B information requirements for miscellaneous units. Except as otherwise provided in 335-14-5-.24(1), owners and operators of facilities that treat, store or dispose of hazardous waste in miscellaneous units must provide the following additional information:

(a) A detailed description of the unit being used or proposed for use, including the following:

1. Physical characteristics, materials of construction and dimensions of the unit;

2. Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of 335-14-5-.24(2) and 335-14-5-.24(3); and

3. For disposal units, a detailed description of the plans to comply with the post-closure requirements of 335-14-5-.24(4).

(b) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of

335-14-5-.24(2). If the applicant can demonstrate that he does not violate the environmental performance standards of 335-14-5-.24(2) and the Department agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(c) Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of such exposures.

(d) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(e) Any additional information determined by the Department to be necessary for evaluation of compliance of the unit with the environmental performance standards of 335-14-5-.24(2).

(15) Specific Part B information requirements for process vents. Except as otherwise provided in 335-14-5-.01(1), owners and operators of facilities that have process vents to which 335-14-5-.27 applies must provide the following additional information:

(a) For facilities that cannot install a closed-vent system and control device to comply with the provisions of 335-14-5-.27 on the effective date that the facility becomes subject to the provisions of 335-14-5 or 335-14-6-.27, an implementation schedule as specified in 335-14-5-.27(4).

(b) Documentation of compliance with the process vent standards in 335-14-5-.27(3), including:

1. Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan).

2. Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentration) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.

3. Information and data used to determine whether or not a process vent is subject to the requirements of 335-14-5-.27(3).

(c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of 335-14-5-.27(3), and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 335-14-5-.27(6).

(d) Documentation of compliance with 335-14-5-.27(4), including:

1. A list of all information references and sources used in preparing the documentation.

2. Records including the dates of each compliance test required by 335-14-5-.27(4).

3. A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" [incorporated by reference in Rule 335-14-1-.02(297)] or other engineering texts acceptable to the Department that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in 335-14-5-.27(6).

4. A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

5. A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of 335-14-5-.27(3) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

(16) Specific Part B information requirements for equipment. Except as otherwise provided in 335-14-5-.01(1), owners and operators of facilities that have equipment to which 335-14-5-.28 applies must provide the following additional information:

(a) For each piece of equipment to which 335-14-5-.28 applies:

1. Equipment identification number and hazardous waste management unit identification.

2. Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan).

3. Type of equipment (e.g., a pump or pipeline valve).

4. Percent by weight total organics in the hazardous waste stream at the equipment.

5. Hazardous waste state at the equipment (e.g., gas/vapor or liquid).

6. Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

(b) For facilities that cannot install a closed-vent system and control device to comply with the provisions of Rule 335-14-5-.28 on the effective date that the facility becomes subject to the provisions of 335-14-5-.28 or 335-14-6-.28, an implementation schedule as specified in 335-14-5-.27(4).

(c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 335-14-5-.27(6).

(d) Documentation that demonstrates compliance with the equipment standards in 335-14-5-.28(3) to (10). This documentation shall contain the records required under 335-14-5-.28(15). The Department may request further documentation before deciding if compliance has been demonstrated.

(e) Documentation to demonstrate compliance with 335-14-5-.28(11) shall include the following information:

1. A list of all information references and sources used in preparing the documentation.

2. Records, including the dates of each compliance test required by 335-14-5-.27(4).

3. A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" [incorporated by reference in Rule

335-14-1-.02(297)] or other engineering texts acceptable to the Department that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in 335-14-5-.27(6).

4. A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is operating at the highest load or capacity level reasonably expected to occur.

5. A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

(17) Special Part B information requirements for drip pads. Except as otherwise provided by rule 335-14-5-.01, owners and operators of hazardous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide the following additional information:

(a) A list of hazardous wastes placed or to be placed on each drip pad.

(b) If an exemption is sought to 335-14-5-.06, as provided by 335-14-5-.06(1), detailed plans and an engineering report describing how the requirements of 335-14-5-.06(1)(b)2. will be met.

(c) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated, and maintained to meet the requirements of 335-14-5-.23(4), including the as-built drawings and specifications. This submission must address the following items as specified in 335-14-5-.23(2):

1. The design characteristics of the drip pad;

2. The liner system;

3. The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;

4. Practices designed to maintain drip pads;

5. The associated collection system;

6. Control of run-on to the drip pad;

7. Control of run-off from the drip pad;

8. The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

9. Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned.

10. Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

11. Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and non-pressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;

12. Provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

13. If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals.

14. A description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of 335-14-5-.23(4). This information should be included in the inspection plan submitted under 335-14-8-.02(5)(b)5.

15. A certification signed by a qualified Professional Engineer stating that the drip pad design meets the requirements of 335-14-.23(4)(a) through (f).

16. A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under 335-14-5-.23(6)(a). For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how 335-14-5-.14(11) will be complied with. This information should be included in

the closure plan and, where applicable, the post-closure plan submitted under 335-14-8-.02(5)(b)13.

(18) Specific Part B information requirements for air emission controls for tanks, surface impoundments, and containers.

(a) Except as otherwise provided in 335-14-5-.01(1), owners and operators of tanks, surface impoundments, or containers that use air emission controls in accordance with the requirements of 335-14-5-.29 shall provide the following additional information:

1. Documentation for each floating roof cover installed on a tank subject to 335-14-5-.29(5) that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the applicable design specifications as listed in 335-14-5-.29(5).

2. Identification of each container area subject to the requirements of 335-14-5-.29 and certification by the owner or operator that the requirements of 335-14-8-.02 are met.

3. Documentation for each enclosure used to control air pollutant emissions from tanks or containers in accordance with the requirements of 335-14-5-.29(5) or 335-14-5-.29(7) that includes records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T--Criteria for and Verification of a Permanent or Temporary Total Enclosure" under 40 CFR 52.741, Appendix B.

4. Documentation for each floating membrane cover installed on a surface impoundment in accordance with the requirements of 335-14-5-.29(6) that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in 335-14-5-.29(6).

5. Documentation for each closed-vent system and control device installed in accordance with the requirements of 335-14-5-.29(8) that includes design and performance information as specified in 335-14-8-.02(15)(c) and (d).

6. An emission monitoring plan for both Method 21 in 40 CFR part 60, Appendix A and control device monitoring methods. This plan shall include the following information: monitoring point(s), monitoring methods for

control devices, monitoring frequency, procedures for documenting exceedances, and procedures for mitigating noncompliances.

7. When an owner or operator of a facility subject to 335-14-6-.29 cannot comply with 335-14-5-.29 by the date of permit issuance, he must comply with the schedule of implementation required under 335-14-6-.29(3).

(19) Specific Part B information requirements for post-closure permits. The following specific Part B information must be provided in addition to the general application requirements of 335-14-8-.02(1), (2), (3), and (4).

(a) For post-closure permits, the owner or operator is required to submit only the information specified in 335-14-8-.02(5)(b)1., 4., 5., 6., 11., 13., 14., 16., 18., and 19., 335-14-8-.02(5)(c), 335-14-8-.02(5)(d), and a list of the hazardous wastes placed in each unit, unless the Department determines that additional information from 335-14-8-.02(5), (7), (8), (9), (11), or (12) is necessary. The owner or operator is required to submit the same information when an alternative authority is used in lieu of a post-closure permit as provided in 335-14-8-.01(1)(c)7.

(b) For alternative post-closure permits, the owner or operator is required to submit the information specified in 335-14-8-.02(19)(a). The information specified in 335-14-8-.02(1), (2), (3), (4), (5)(b)1., (5)(b)4., (5)(b)5., (5)(b)6., (5)(b)11.(i), (5)(b)11.(iii), (5)(b)14., (5)(b)16., (5)(b)19., and a list of the hazardous wastes placed in each unit must be submitted in the permit application, together with a proposed permit schedule for submittal of the remaining required information.

(20) Permit denial. The Department may, pursuant to the procedures in 335-14-8-.08, deny the permit application either in its entirety or as to the active life of a hazardous waste management facility or unit only.

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Statutory Authority: Code of Ala. 1975, §§22-30-11, 22-30-12, 22-30-16, 22-30-18.

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effective March 31, 2000. **Amended:** Filed March 9, 2001; effective April 13, 2001. **Amended:** Filed February 8, 2002; effective March 15, 2002. **Amended:** Filed March 13, 2003; effective April 17, 2003. **Amended:** Filed February 24, 2005; effective March 31, 2005. **Amended:** Filed February 28, 2006; effective April 4, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed April 22, 2008; effective May 27, 2008. **Amended:** Filed February 24, 2009; effective March 31, 2009. **Amended:** Filed February 23, 2010; effective March 30, 2010. **Amended:** Filed February 28, 2012; effective April 3, 2012.

335-14-8-.03 Permit Conditions - Treatment, Storage And Disposal Facilities.

(1) Conditions applicable to all permits. The following conditions apply to all permits, and shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

(a) Duty to comply. The permittee must comply with all conditions of this permit, except that the permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit. [See 335-14-8-.06(1).]

Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of the AHWMMA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(b) Duty to reapply.

1. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

2. The Permittee must submit an application for a new permit for both post-closure and solid waste management unit corrective action at least 180 calendar days before the expiration of this permit. The Permittee must reapply in order to fulfill the 30-year post-closure care period required by 335-14-5-.07(8)(a)1. The Department may shorten or extend the post-closure care period applicable to the hazardous waste facility in accordance with 335-14-5-.07(8)(a)2. and 335-14-8-.03(1)(b).

(c) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(d) In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

(e) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(f) Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(g) Property rights. The permit does not convey any property rights of any sort, or any exclusive privilege.

(h) Duty to provide information. The permittee shall furnish to the Department, within a reasonable time, any relevant information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

(i) Inspection and entry. The permittee shall allow duly designated officers and employees of the Department or their authorized representative, upon the presentation of credentials and other documents as may be required by law to:

1. Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the AHWMMA, any substances or parameters at any location.

(j) Monitoring and records.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by 335-14-5-.05(4)(b)9., and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, certification, or application. This period may be extended by request of the Department at any time. The permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well.

3. Records for monitoring information shall include:

(i) The date, exact place, and times of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(k) Signatory requirements. All applications, reports, or information submitted to the Department shall be signed and certified. (See 335-14-8-.02(2).)

(l) Reporting requirements.

1. Planned changes. The permittee shall notify the Department, in writing, within 15 days of discovery, of any additional AOC(s) or SWMU(s).

2. Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not treat, store, or dispose of hazardous wastes; and for a facility being modified, the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility, until:

(i) The permittee has submitted to the Department by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

(ii)(I) The Department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(II) Within 15 days of the date of submission of the letter in 335-14-8-.03(1)(l)2.(i), the permittee has not received notice from the Department of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of hazardous waste.

3. Transfers. This permit is not transferable to any person except after notice to the Department. Before transferring ownership or operation of the facility during the term of this permit, the permittee shall notify the new owner or operator, in writing, of the requirements of 335-14-5 and 335-14-8 and this permit. The permittee shall submit a permit modification request no later than 30 days after the change in ownership or operation and must comply with all conditions of this permit until a permit modification to transfer the permit is approved by the Department. (See 335-14-8-.04(1). The permit modification request should include documentation of the notification to the new owner or operator of the requirements of 335-14-5 and 335-14-8 and this permit.

4. Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

5. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

6. Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger human health or the environment orally within 24 hours from the time the permittee becomes aware of the circumstances, including:

(I) Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies.

(II) Any information of a release or discharge of hazardous waste or of a fire or explosion from the HWM facility, which could threaten the environment or human health outside the facility.

(ii) The description of the occurrence and its cause shall include:

(I) Name, address, and telephone number of the owner or operator;

(II) Name, address, and telephone number of the facility;

(III) Date, time, and type of incident;

(IV) Name and quantity of material(s) involved;

(V) The extent of injuries, if any;

(VI) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(VII) Estimated quantity and disposition of recovered material that resulted from the incident.

(iii) A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its

cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance. The Department may waive the five day written notice requirement in favor of a written report within fifteen days.

7. Manifest discrepancy report: If a significant discrepancy in a manifest is discovered, the permittee must:

(i) Attempt to reconcile the discrepancy. If not resolved within 20 days, the permittee must submit a letter report, including a copy of the manifest, to the Department. [See 335-14-5-.05(3).]

(ii) Beginning on December 1, 2025, attempt to reconcile the discrepancy. If not resolved within 20 days, the permittee must immediately submit a Discrepancy Report to the EPA e-Manifest System describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue. [See 335-14-5-.05(3)]

8. Unmanifested waste report: A permittee must:

(i) Submit the Unmanifested Waste Report to the Department within 15 days of receipt of unmanifested waste. [See 335-14-5-.05(7)]

(ii) Beginning on December 1, 2025, submit an electronic Unmanifested Waste Report in the EPA e-Manifest system within 15 days of receipt of unmanifested waste. [See 335-14-5-.05(7)]

9. Biennial report: A biennial report must be submitted covering facility activities during odd numbered calendar years. [See 335-14-5-.05(6).]

10. Other noncompliance. The permittee shall report all instances of noncompliance not reported under 335-14-8-.03(l(I))4., (l)5. and (l)6., at the time monitoring reports are submitted. The reports shall contain the information listed in 335-14-8-.03(l)(I)6.

11. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

(m) Information repository. The Department may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in 335-14-8-.08(1)(c)2. The information repository will be governed by the provisions in 335-14-8-.08(1)(c)3. through 6.

(2) Requirements for recording and reporting of monitoring results. All permits shall specify:

(a) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

(b) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring;

(c) Applicable reporting requirements based upon the impact of the regulated activity and as specified in Chapters 335-14-5 and 335-14-7. Reporting shall be no less than specified in the above regulations.

(3) Establishing permit conditions.

(a) In addition to conditions required in all permits 335-14-8-.03(1), the Department shall establish conditions, as required on a case-by-case basis, in permits under 335-14-8-.05(1) (duration of permits), 335-14-8-.03(4)(a) (schedules of compliance) and 335-14-8-.03(2) (monitoring).

(b)1. Each AHWMMA permit shall include permit conditions necessary to achieve compliance with the AHWMMA and rules, including each of the applicable requirements specified in Chapters 335-14-5 and 335-14-7 through 335-14-9. In satisfying this provision, the Department may incorporate applicable requirements of Chapters 335-14-5 and 335-14-7 through 335-14-9 directly into the permit or establish other permit conditions that are based on these Chapters.

2. Each permit issued under the AHWMMA shall contain terms and conditions as the Department determines necessary to protect human health and the environment.

(c) An applicable requirement is a statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit. 335-14-8-.08(9) (reopening of comment period) provides a means for reopening permit proceedings at the discretion of the Department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes

effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in 335-14-8-.04(2).

(d) New or reissued permits, and to the extent allowed under 335-14-8-.04(2), modified or revoked and reissued permits shall incorporate each of the applicable requirements referenced in 335-14-8-.03(2).

(e) All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

(4) Schedules of compliance.

(a) The permit may, when appropriate, specify a schedule of compliance leading to compliance with the AHWMMA and Rules.

1. Any schedules of compliance under 335-14-8-.03(4) shall require compliance as soon as possible.

2. Except as provided in 335-14-8-.03(4)(b)1.(ii), if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

(i) The time between interim dates shall not exceed 1 year.

(ii) If the time necessary for completion of an interim requirement is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

3. The permit shall be written to require that no later than 14 days following each interim date and the final date of compliance, the permittee shall notify the Department in writing, of its compliance or noncompliance with the interim or final requirements.

(b) A permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment and storage HWM facilities, closing pursuant to applicable requirements; and, for disposal HWM facilities, closing and conducting post-closure care pursuant to applicable requirements) rather than continue to operate and meet permit requirements as follows:

1. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(i) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

(ii) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit;

2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements;

3. If the permittee is undecided whether to cease conducting regulated activities, the Department may issue or modify a permit to contain two schedules as follows:

(i) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

(ii) One schedule shall lead to timely compliance with applicable requirements;

(iii) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements;

(iv) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under 335-14-8-.03(4)(b)3.(i) it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities; and

4. The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Department, such as resolution of the board of directors of a corporation.

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335-14-8-.04 Changes To Permit - Treatment, Storage, And Disposal Facilities.

(1) Transfer of permits. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under 335-14-8-.04(2)(b)2., or a minor modification made under 335-14-8-.04(3)(a)1.(vii), to identify the new permittee and incorporate such other requirements as may be necessary under the AHWMMA.

(2) Major modification or revocation and reissuance of permits. When the Department receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see 335-14-8-.03(1)), receives a request for modification or revocation and reissuance under 335-14-8-.08(2), or conducts a review of the permit file, it may determine whether or not one or more of the causes listed in 335-14-8-.04(2)(a) and (b) for modification, or revocation and reissuance, or both exist. If cause exists, the Department may modify, or revoke and reissue, the permit accordingly, subject to the limitations of 335-14-8-.04(2)(c), and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. (See 335-14-8-.08(3)(c)2.) If cause does not exist under 335-14-8-.04(2) or 335-14-8-.04(3), the Department shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in 335-14-8-.04(3) for a minor modification, the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in 335-14-8 followed.

(a) Causes for modification. The following are causes for modification, but not revocation and reissuance, of permits; the following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees:

1. Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

2. Information. The Department has received information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance or test methods) and would have justified the application of different permit conditions at the time of issuance;

3. New statutory requirements or rules. The standards or rules on which the permit was based have been changed by statute, through promulgation of new or amended standards or rules, or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause as follows:

(i) Department may modify the permit when the standards or Rules on which the permit was based have been changed by statute or amended standards or Rules.

(ii) Permittee may request modification when:

(I) The permit condition to be modified was based on a promulgated Rule under Chapters 335-14-1 through 335-14-9; and

(II) The Department has revised, withdrawn, or modified that portion of the rule on which the permit condition was based; or

(III) A permittee requests modification in accordance with 335-14-8-.08(3) within ninety (90) days after action on which the request is based.

(iii) For judicial decisions, a court of competent jurisdiction has remanded and stayed Department promulgated rules if the remand and stay concern that portion of the rules on which the permit condition was based or a request is filed by the permittee in accordance with 335-14-8-.08(3) within ninety (90) days of judicial remand;

4. The Department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy;

5. The Department may also modify a permit:

(i) When modification of a closure plan is required under 335-14-5-.07(3)(c) or (9)(d);

(ii) After the Department receives the notification of expected closure under 335-14-5-.07(4), when the Department determines that extension of the 90 to 180 day periods under 335-14-5-.07(4), modification of the 30-year post-closure period under 335-14-5-.07(8)(a), a continuation of security requirements under 335-14-5-.07(8)(b), or permission to disturb the integrity of the containment system under 335-14-5-.07(8)(c) are unwarranted;

(iii) When the permittee has filed a request under 335-14-5-.08(8)(c) for a variance to the level of financial responsibility or when the Department demonstrates under 335-14-5-.08(8)(d) that an upward adjustment of the level of financial responsibility is required;

(iv) When the corrective action program specified in the permit under 335-14-5-.06(11) has not brought the regulated unit into compliance with the groundwater protection standard within a reasonable period of time;

(v) To include a detection monitoring program meeting the requirements of 335-14-5-.06(9), when the owner or operator has been conducting a compliance monitoring program under 335-14-5-.06(10) or a corrective action program under 335-14-5-.06(11) and compliance period ends before the end of the post-closure care period for the unit;

(vi) When a permit requires a compliance monitoring program under 335-14-5-.06(10), but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard;

(vii) To include conditions applicable to units at a facility that were not previously included in the facility's permit; and

(viii) When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

6. Notwithstanding any other provision in 335-14-8-.04(2), when a permit for a land disposal facility is reviewed by the Department under 335-14-8-.05(1)(d), the

Department shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in Chapters 335-14-1 through 335-14-8.

(b) The following are causes to modify or, alternatively, revoke and reissue a permit:

1. Cause exists for termination under 335-14-8-.04(4) and the Department determines that modification or revocation and reissuance is appropriate;

2. The Department has received notification (as required in the permit, see 335-14-8-.03(1)(l)3. of a proposed transfer of the permit).

(c) Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance;

(d) Newly listed or identified wastes and units.

1. The permittee is authorized to continue to manage wastes listed or identified as hazardous under Chapter 335-14-2, or to continue to manage hazardous waste in units newly regulated as hazardous waste units, if:

(i) The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the Rule listing or identifying the waste, or regulating the unit;

(ii) The permittee submits a minor modification request under 335-14-8-.04(3)(a)15. on or before the date on which the waste or unit becomes subject to the new requirements;

(iii) The permittee is in compliance with the applicable standards of Chapters 335-14-6 and 335-14-7;

(iv) Unless 335-14-8-.04(2)(d)2. applies, the permittee submits a complete permit modification request under 335-14-8-.04(2) within 180 days after the effective date of the Rule listing or identifying the waste, or subjecting the unit to 335-14 management standards; and

(v) In the case of land disposal units, the permittee certifies that such unit is in compliance with all applicable requirements of Chapter 335-14-6 for groundwater monitoring and financial responsibility on the date 12 months after the effective date of the Rule identifying or listing the waste as hazardous, or regulating the unit as a hazardous waste management unit.

(vi) If the owner or operator fails to clarify compliance with all requirements of 335-14-8-.04(2)(d)1.(i) through (d)1.(v), he or she shall lose authority to operate under 335-14-8-.04(2).

2. A major permit modification shall not be required to add newly listed or identified wastes to a facility's permit provided:

(i) The Permittee has complied with 335-14-8-.04(2)(d)1.(i), (ii), and (iii);

(ii) The newly listed wastes are managed in containers, tanks, surface impoundments, or landfills;

(iii) The management of the wastes does not require the addition of units to the permit or the modification of permitted units;

(iv) The management of the wastes does not require a change in the treatment, storage, or disposal processes or management standards for the facility;

(v) The wastes are not dioxin-containing wastes (F020, F021, F022, F023, F026, F027, F028);

(vi) The unit(s) have previously received wastes of the same type (e.g., incinerator scrubber water, incinerator ash); and

(vii) In the case of surface impoundments and landfills, the wastes are:

(I) Wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in Rule 335-14-9-.01(8)(a)2.(ii) and provided that the unit meets the minimum technological requirements stated in 335-14-9-.01(5)(h)2; or

(II) Residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in 335-14-9-.01(5)(h)2.

(e) Military hazardous waste munitions treatment and disposal.

1. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if:

(i) The facility was in existence as a hazardous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to hazardous waste regulatory requirements;

(ii) The permittee submits a minor modification request under 335-14-8-.04(3)(a)16. to remove or amend the permit provision restricting the receipt of off-site waste munitions on or before the date on which the waste military munitions become subject to the hazardous waste regulatory requirements;

(iii) The permittee is in compliance with the applicable standards of Chapters 335-14-6 and 335-14-7; and

(iv) The permittee submits a complete permit modification request under 335-14-8-.04(2) within 180 days of the date when the waste military munitions became subject to hazardous waste regulatory requirement.

2. If the owner or operator fails to clarify compliance with all requirements of 335-14-8-.04(2)(e)1.(i) through (e)1.(iv), he or she shall lose authority to operate under 335-14-8-.04(2).

(3) Minor modifications of permits. Upon the consent of the permittee, the Department may modify a permit to make the corrections or allowances for changes in the permitted activity listed in 335-14-8-.04(3), without following the procedures of Rule 335-14-8-.08. Any permit modification not processed as a minor modification under 335-14-8-.04(3) must be made for cause and with Rule 335-14-8-.08 draft permit and public notice as required in 335-14-8-.04(2).

(a) Except as provided in 335-14-8-.04(3)(b), minor modifications are limited to the following actions:

1. General Permit Provisions.

(i) Administrative and informational changes.

(ii) Correction of typographical errors.

(iii) Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls).

(iv) Changes in the frequency of, or procedures for, monitoring, reporting, sampling, or maintenance activities by the permittee to provide for more frequent monitoring, reporting, sampling, or maintenance.

(v) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement.

(vi) Change in expiration date of permit to allow earlier permit termination. This does not apply to permits which require post-closure care, post-closure monitoring or corrective action to be conducted.

(vii) Allow for a change in ownership or operational control of a facility where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the Department. Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the previous owner or operator shall comply with the requirements of Rule 335-14-5-.08 (Financial Requirements), until the new owner or operator has demonstrated to the Department that he is complying with the requirements of that Rule. The new owner or operator must demonstrate compliance with Rule 335-14-5-.08 requirements within six months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the Department by the new owner or operator of compliance with Rule 335-14-5-.08, the Department shall notify the previous owner or operator in writing that he no longer needs to comply with Rule 335-14-5-.08 as of the date of demonstration.

(viii) Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which they are based are no longer applicable to the facility).

(ix) Changes to remove permit conditions aplicable to a unit excluded under the provisions of 335-14-2-.01(4).

(x) Changes in the expiration date of a permit issued to a facility at which all units are excluded under the provisions of 335-14-2-.01(4).

2. General Facility Standards.

(i) Changes to waste sampling or analysis methods which are made to conform with Department guidance or regulations.

(ii) Changes to analytical quality assurance/control plan which are made to conform with Department guidance or regulations.

(iii) Changes in procedures for maintaining the operating record.

(iv) Changes in inspection schedules to increase inspection frequency.

(v) Changes in the training plan which do not affect the type or decrease the amount of training given to employees.

(vi) Changes in the contingency plan which are limited to:

(I) The replacement with functionally equivalent equipment, upgrade, or relocation of emergency equipment listed in the contingency plan.

(II) The inclusion of additional equipment in the contingency plan.

(III) Changes in name, address or phone number of coordinators or other persons or agencies identified in the contingency plan.

(vii) Changes in the construction quality assurance plan which are limited to:

(I) Changes that the CQA officer certifies in the operating record will provide equivalent or

better certainty that the unit components meet the design specifications.

(II) [Reserved]

3. Groundwater Protection.

(i) Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.

(ii) Changes in groundwater sampling or analysis procedures or monitoring schedule which do not reduce the frequency of monitoring.

(iii) Changes in statistical procedure for determining whether a statistically significant change in groundwater quality between upgradient and downgradient wells has occurred.

4. Closure.

(i) Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility.

(ii) Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period.

(iii) Changes in the expected year of final closure, where other permit conditions are not changed.

(iv) Changes in procedures for decontamination of facility equipment or structures.

5. Post-Closure.

(i) Changes in name, address, or phone number of contact in post-closure plan.

(ii) Changes in the expected year of final closure, where other permit conditions are not changed.

6. Containers.

(i) Addition of a roof to a container unit without alteration of the containment system.

(ii) Reserved

7. Tanks.

(i) Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10 percent of the replaced tank, provided:

(I) The capacity difference is no more than 1500 gallons;

(II) The facility's permitted tank capacity is not increased; and

(III) The replacement tank meets the same conditions in the permit.

(ii) Addition of a roof to a tank unit without alteration of the tank(s) or of the containment system.

8. Waste Piles.

(i) Addition of a roof to a waste pile unit without alteration of the containment system.

(ii) Reserved

9. Incinerators, boilers, and industrial furnaces.

(i) Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness.

(ii) Changes in the operating requirements set in the permit for conducting a trial burn, provided that the changes are minor.

(iii) Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided that the changes are minor.

(iv) Substitution of an alternative type of non-hazardous waste fuel that is not specified in the permit.

(v) Combustion facility changes to meet part 63 MACT standards. The following procedures apply to hazardous waste combustion facility permit modifications requested under 335-14-8.

(I) Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to October 12, 2000, (See 40

CFR Part 63 Revised as of July 1, 2000) in order to request a permit modification under 335-14-8.

(II) [Reserved}

(vi) Technology changes needed to meet standards under 40 CFR part 63 (Subpart EEE – National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of 335-14-8-.04(3)(a)9.(v) are followed.

10. Drip Pads.

(i) Addition of a roof to a drip pad unit without alteration of the containment system.

(ii) Reserved.

11. Containment Buildings.

(i) Replacement of a containment building with a containment building that meets the same design standards provided:

(I) The unit capacity is not increased; and

(II) The replacement containment building meets the same conditions in the permit.

(ii) Reserved.

12. [Reserved]

13. [Reserved]

14. [Reserved]

15. Newly listed or identified wastes.

(i) Addition of wastes listed or identified as hazardous waste under Chapter 335-14-2 after the date of permit issuance, subject to the conditions of 335-14-8-.04(2)(d).

(ii) Reserved.

16. Military hazardous waste munitions.

(i) Additions of waste military munitions listed or identified as hazardous waste under 335-14-2 after the date of permit issuance, subject to the conditions of 335-14-8-.04(2)(e).

(ii) Reserved.

(b) Other Modifications.

1. In the case of modifications not explicitly listed in 335-14-8-.04(3)(a) the permittee may submit a major modification request to the Department under 335-14-8-.04(2), or he or she may request a determination by the Department that the modification should be reviewed and approved as a minor modification under 335-14-8-.04(3). If the permittee requests that the modification be classified as a minor modification, he or she must provide the Department with the necessary information to support the requested classification.

2. The Department shall make the determination described in 335-14-8-.04(3)(b)1. as promptly as practicable. In determining the appropriate classification for a specific modification, the Department shall consider:

(i) The similarity of the modification to other modifications codified in 335-14-8-.04; and

(ii) The criteria that minor modifications apply only to changes that:

(I) Keep the permit current with routine changes to the facility or its operation; and

(II) Do not substantially alter the permit conditions.

(4) Termination of permits.

(a) The following are causes for terminating a permit during its term, or for denying a permit renewal application:

1. Noncompliance by the permittee with any condition of the permit, any applicable regulation under Division 335-14, any provision of the AHWMMA or any provision of any order issued by the Department under authority of the AHWMMA or the Alabama Environmental Management Act, (Code of Ala. 1975, §§22-22A-1 to 22-22A-16);

2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

3. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(b) The Department shall follow the applicable procedures in Rule 335-14-8-.08 in terminating any permit under 335-14-8-.04(4).

Author: Stephen C. Maurer, Stephen A. Cobb, C. Edwin Johnston; Jonah L. Harris
Statutory Authority: Code of Ala. 1975, §§22-30-11, 22-30-12.
History: July 19, 1982. **Amended:** April 9, 1986; September 29, 1986; August 24, 1989, January 25, 1992; January 1, 1993. **Amended:** Filed: November 30, 1994 effective January 5, 1995. **Amended:** Filed February 21, 1997; effective March 28, 1997. **Amended:** Filed February 20, 1998; effective March 27, 1998. **Amended:** Filed February 26, 1999; effective April 2, 1999. **Amended:** Filed March 9, 2001; effective April 13, 2001. **Amended:** Filed February 8, 2002; effective March 15, 2002. **Amended:** Filed March 13, 2003; effective April 17, 2003. **Amended:** Filed February 28, 2012; effective April 3, 2012. **Amended:** Published November 30, 2022; effective June 12, 2023.

335-14-8-.05 Expiration And Continuation Of Permits-Treatment, Storage And Disposal Facilities.

(1) Duration of permits.

(a) Permits under Division 335-14 shall be effective for a fixed term not to exceed ten (10). Each permit for an operating landfill disposal facility shall be reviewed no later than five (5) years after the date of issuance or reissuance.

(b) Except as provided in 335-14-8-.05(2), the term of a permit shall not be extended by modification beyond the maximum duration specified in 335-14-8-.05(1).

(c) The Department may issue any permit for a duration that is less than the full allowable term under 335-14-8-.05(1).

(d) Each permit for a land disposal facility shall be reviewed by the Department five years after the date of permit issuance or reissuance and shall be modified as necessary, as provided in 335-14-8-.04(2).

(2) Continuation of expiring permits.

(a) The conditions of an expired permit continue in force until the effective date of a new permit if:

1. The permittee has submitted a timely application under 335-14-8-.02(5) and the applicable paragraphs in 335-14-8-.02(6) through (19) which is a complete (under 335-14-8-.02(1)(c)) application for a new permit; and

2. The Department through no fault of the permittee does not issue a new permit with an effective date on or before the expiration date of the previous permit.

(b) Effect. Permits continued under 335-14-8-.05(2) remain fully effective and enforceable.

(c) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the Department may choose to do any or all of the following:

1. Initiate enforcement action based on the permit which has been continued;

2. Issue a new permit under Rule 335-14-8-.08 with appropriate conditions; or

3. Deny the permit; or

4. Take any other actions authorized by these regulations.

Author: Stephen C. Maurer; Stephen A. Cobb, C. Edwin Johnston; Sonja B. Favors; Brent A. Watson; Jonah L. Harris
Statutory Authority: Code of Ala., 1975, §§22-30-11, 22-30-12.
History: October 12, 1983. **Amended:** April 9, 1986; September 29, 1986; August 24, 1989; December 6, 1990. **Amended:** Filed: November 30, 1994 effective January 5, 1995. **Amended:** Filed February 21, 1997; effective March 28, 1997. **Amended:** Filed March 9, 2001; effective April 13, 2001. **Amended:** Published December 31, 2020; effective February 14, 2021.

335-14-8-.06 Special Forms Of Permits - Treatment, Storage, And Disposal Facilities.

(1) Emergency permits.

(a) Not withstanding any other provision of 335-14-8, in the event the Department finds an imminent and substantial endangerment to human health or the environment, the Department may issue a temporary emergency permit:

1. To a non-permitted facility to allow treatment, storage, or disposal of hazardous waste or,

2. To a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.

(b) This emergency permit:

1. May be oral or written. If oral, it shall be followed in five days by a written emergency permit;

2. Shall not exceed 90 days in duration;

3. Shall clearly specify the hazardous wastes to be received, and the manner and location of their treatment, storage, or disposal;

4. May be terminated by the Department at any time without process if it determines that termination is appropriate to protect human health and the environment;

5. Shall be accompanied by a public notice published under 335-14-8-.08(6)(b) including:

(i) Name and address of the office granting the emergency authorization;

(ii) Name and location of the permitted HWM facility;

(iii) A brief description of the wastes involved;

(iv) A brief description of the action authorized and reasons for authorizing it; and

(v) Duration of the emergency permit; and

6. Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of 335-14-8 and Chapters 335-14-5 and 335-14-7.

(2) Hazardous waste incinerator permits. When an owner or operator demonstrates compliance with the ear emission standards and limitations of 335-3-11-.06(56) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of 335-14-8-.06 do not apply, except those provisions the Director determines are necessary to ensure compliance with 335-14-5-.15(6)(a) and (6)(c) if the facility elects to comply with 335-14-8-.15(1)(a)1.(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Department may apply the provisions of 335-14-8-.06, on a case-by-case basis, for the purposes of information collection in accordance with 335-14-8-.02(1)(k) and 335-14-8-.03(3)(b)2.

(a) For the purposes of determining operational readiness following completion of physical construction, the Department must establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the

incinerator to a point of operational readiness to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The Department may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to 335-14-8-.04(3) (minor modifications of permits).

1. Applicants must submit a statement, with Part B of the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of 335-14-5-.15(4) during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in 335-14-5-.15(6).

2. The Department will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of 335-14-5-.15(4) based on its engineering judgment.

(b) For the purposes of determining feasibility of compliance with the performance standards of 335-14-5-.15(4) and of determining adequate operating conditions under 335-14-5-.15(6), the Department must establish conditions in the permit for a new hazardous waste incinerator to be effective during the trial burn.

1. Applicants must propose a trial burn plan, prepared under 335-14-8-.06(2)(b)2. with a Part B of the permit application.

2. The trial burn plan must include the following information:

(i) An analysis of each waste or mixture of wastes to be burned which includes:

(I) Heat value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of the physical form of the waste;

(III) An identification of any hazardous organic constituents listed in 335-14-2 - Appendix VIII, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in 335-14-2 - Appendix VIII which would reasonably not be expected to be found in the waste. The constituents excluded

from analysis must be identified, and the basis for the exclusion stated. The waste analysis must rely on appropriate analytical; and

(IV) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by appropriate analytical;

(ii) A detailed engineering description of the incinerator for which the permit is sought including:

(I) Manufacturer's name and model number of incinerator (if available);

(II) Type of incinerator;

(III) Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber;

(IV) Description of the auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cut-off system(s);

(VII) Stack gas monitoring and pollution control equipment;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating and control devices;

(iii) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;

(iv) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the Department's decision under 335-14-8-.06(2)(b)5.;

(v) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;

(vi) A description of, and planned operating conditions for, any emission control equipment which will be used;

(vii) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction; and

(viii) Such other information as the Department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of 335-14-8-.06(2)(b) and the criteria in 335-14-8-.06(2)(b)5.

3. The Department, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of 335-14-8-.06(2)(b).

4. Based on the waste analysis data in the trial burn plan, the Department will specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Department based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in Rule 335-14-2-.04, the hazardous waste organic constituent or constituents identified in 335-14-2 - Appendix VII as the basis for listing.

5. The Department shall approve a trial burn plan if it finds that:

(i) The trial burn is likely to determine whether the incinerator performance standard required by 335-14-5-.15(4) can be met;

(ii) The trial burn itself will not present an imminent hazard to human health or the environment;

(iii) The trial burn will help the Department to determine operating requirements to be specified under 335-14-5-.15(6); and

(iv) The information sought in 335-14-8-.06(2)(b)5.(i) and (b)5.(ii) cannot reasonably be developed through other means.

6. The Department must send a notice to all persons on the facility mailing list as set forth in 335-14-8-.08(6)(c)1.(iv) and to the appropriate units of State of Alabama and local government as set forth in 335-14-8-.08(6)(c)1.(v) announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Department has issued such notice.

(i) This notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the Department.

(ii) This notice must contain:

(I) The name and telephone number of the applicant's contact person;

(II) The name and telephone number of the Department's contact office;

(III) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

(IV) An expected time period for commencement and completion of the trial burn.

7. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(i) A quantitative analysis of the trial POHCs in the waste feed to the incinerator.

(ii) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (O2) and hydrogen chloride (HCl).

(iii) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs.

(iv) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in 335-14-5-.15(4)(a).

(v) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with 335-14-5-.15(4)(b).

(vi) A computation of particulate emissions, in accordance with 335-14-5-.15(4)(c).

(vii) An identification of sources of fugitive emissions and their means of control.

(viii) A measurement of average, maximum, and minimum temperatures and combustion gas velocity.

(ix) A continuous measurement of carbon monoxide (CO) in the exhaust gas.

(x) Such other information as the Department may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in 335-14-5-.15(4) and to establish the operating conditions required by 335-14-5-.15(6) as necessary to meet that performance standard.

8. The applicant must submit to the Department a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in 335-14-8-.06(2)(b)6. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Department.

9. All data collected during any trial burn must be submitted to the Department following the completion of the trial burn.

10. All submissions required by 335-14-8-.06(2)(b) must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under 335-14-8-.02(2).

11. Based on the results of the trial burn, the Department shall set the operating requirements in the final permit according to 335-14-5-.15(6). The permit modification shall proceed according to the requirements of 335-14-8-.04.

(c) For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and

prior to final modification of the permit conditions to reflect the trial burn results, the Department may establish permit conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet the requirements of 335-14-5-.15(6), in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation and submission of the trial burn results by the applicant, and modification of the facility permit by the Department.

1. Applicants must submit a statement, with Part B of the permit application, which identifies the conditions necessary to operate in compliance with the performance standards of 335-14-5-.15(4) during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters in 335-14-5-.15(6).

2. The Department will review this statement and any other relevant information submitted with Part B of the permit application and specify those requirements for this period most likely to meet the performance standards of 335-14-5-.15(4) and of determining adequate operating conditions under 335-14-5-.15(6), the applicant for a permit to an existing hazardous waste incinerator may prepare and submit a trial burn plan and perform a trial burn in accordance with 335-14-8-.06(2)(b)2. through (b)9. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in 335-14-8-.06(2)(b)6., with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Department to establish a later date for submission of the Part B application or the trial burn results. If the applicant submit a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results submitted within a time period to be specified by the Department.

(d) For the purpose of determining feasibility of compliance with the performance standards of 335-14-5-.15(4) and of determining adequate operating conditions under 335-14-5-.15(6), the applicant for a permit for an existing hazardous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with 335-14-8-.02(10)(b) and 335-14-8-.06(2)(b)2. through (b)5. and 335-14-8-.06(2)(b)7. through (b)9. or, instead, submit other information as specified in 335-14-8-.02(10)(c). The Department must announce its intention to approve the trial burn plan in accordance with the timing and distribution requirements of 335-14-8-.06(2)(b)6. The contents of the notice must include: the name

and telephone number of a contact person at the facility; the name and telephone number of a contact office at the Department; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for Department approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under 335-14-8-.02(10)(a) are exempt from compliance with 335-14-5-.15(4) and 335-14-5-.15(6) and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in 335-14-8-.06(2)(b)7. with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Department to establish a later date for submission of the Part B application or the trial burn results. Trial burn results must be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with Part B of the permit application, the Department will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

(3) Permits for land treatment demonstrations using field test or laboratory analyses.

(a) For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of 335-14-5-.13(3), the Department may issue a treatment demonstration permit. The permit must contain only those requirements necessary to meet the standards in 335-14-5-.13(3)(c). The permit may be issued either as a treatment or disposal permit covering only the field test or laboratory analyses, or as a two-phase facility permit covering the field tests, or laboratory analyses, and design, construction, operation and maintenance of the land treatment unit.

1. The Department may issue a two-phase facility permit if it finds that, based on information submitted in Part B of the application, substantial, although incomplete or inconclusive, information already exists upon which to base the issuance of a facility permit.

2. If the Department finds that not enough information exists upon which it can establish permit conditions to attempt to provide for compliance with all of the requirements of 335-14-5-.13, it must issue a treatment demonstration permit covering only the field test or laboratory analyses.

(b) If the Department finds that a phased permit may be issued, it will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration clean-up activities, and any other conditions which the Department finds may be necessary under 335-14-5-.13(3)(c). The Department will include conditions in the second phase of the facility permit to attempt to meet all 335-14-5-.13 requirements pertaining to unit design, construction, operation and maintenance. The Department will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application.

1. The first phase of the permit will be effective upon issuance unless stayed by the Department, the Commission or a court of competent jurisdiction.

2. The second phase of the permit will be effective as provided in 335-14-8-.06(3)(d).

(c) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the Department a certification, signed by a person authorized to sign a permit application or report under 335-14-8-.02(2), that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the Department approves a later date.

(d) If the Department determines that the results of the field test or laboratory analyses meet the requirements of 335-14-5-.13(3), it will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with 335-14-5-.13, based upon the results of the field tests or laboratory analyses.

1. This permit modification will proceed as a major modification under 335-14-8-.04(2), unless a determination is made under 335-14-8-.04(3)(b) that the modification is a minor modification and, thus, should be processed under 335-14-8-.04(3). If modifications under 335-14-8-.04(2) are necessary, the second phase of the permit will become effective only after those modifications have been made.

2. If no modifications of the second phase of the permit are necessary, or if only minor modifications are necessary and have been made, the Department will give notice of its final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of the final decision of the second phase of the permit. The second phase of the permit then will become effective as specified in the permit or as otherwise directed by the Department unless stayed by the Commission or a court of competent jurisdiction.

(4) Research, development, and demonstration permits.

(a) The Department may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under 335-14-5 or 335-14-7. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

1. Shall provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in 335-14-8-.06(4)(d), and

2. Shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the Department deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and

3. Shall include such requirements as the Department deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action), and such requirements as the Department deems necessary regarding testing and providing of information to the Department with respect to the operation of the facility.

(b) For the purpose of expediting review and issuance of permits under 335-14-8-.06(4), the Department may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in 335-14-8 except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

(c) The Department may order an immediate termination of all operations at the facility at any time it determines that termination is necessary to protect human health and the environment.

(d) Any permit issued under this section may be renewed not more than three times. Each such renewal shall be for a period of not more than 1 year.

(5) Permits for boilers and industrial furnaces burning hazardous waste. When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations of 335-3-11-.06(56) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of 335-14-8-.06 do not apply, except those provisions the Director determines are necessary to ensure compliance with 335-14-7-.08 if the facility elects to comply with 335-14-8-.15(1)(a)1.(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Department may apply the provisions of 335-14-8-.06, on a case-by-case basis, for the purposes of information collection in accordance with 335-14-8-.02(l)(k) and 335-14-8-.03(3)(b)2.

(a) General. Owners and operators of new boilers and industrial furnaces (those not operating under the interim status standards of 335-14-7-.08(4) are subject to 335-14-8-.06(5)(b) through (f). Boilers and industrial furnaces operating under the interim status standards of 335-14-7-.08(4) are subject to 335-14-8-.06(5)(g).

(b) Permit operating periods for new boilers and industrial furnaces. A permit for a new boiler or industrial furnace shall specify appropriate conditions for the following operating periods:

1. Pretrial burn period. For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operational readiness to conduct a trial burn, not to exceed 720 hours operating time when burning hazardous waste, the Department must establish in the Pretrial Burn Period of the permit conditions, including but not limited to, allowable hazardous waste feed rates and operating conditions. The Department may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to 335-14-8-.04(3).

(i) Applicants must submit a statement, with Part B of the permit application, that suggests the conditions necessary to operate in compliance with

the standards of 335-14-7-.08(5) through 335-14-7-.08(8) during this period. This statement should include, at a minimum, restrictions on the applicable operating requirements identified in 335-14-7-.08(3)(e).

(ii) The Department will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of 335-14-7-.08(5) through 335-14-7-.08(8) based on his/her engineering judgment.

2. Trial burn period. For the duration of the trial burn, the Department must establish conditions in the permit for the purposes of determining feasibility of compliance with the performance standards 335-14-7-.08(5) through 335-14-7-.08(8) and determining adequate operating conditions under 335-14-7-.08(3)(e). Applicants must propose a trial burn plan, prepared under 335-14-8-.06(5)(c), to be submitted with Part B of the permit application.

3. Post-trial burn period.

(i) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Department to reflect the trial burn results, the Department will establish the operating requirements most likely to ensure compliance with the performance standards of 335-14-7-.08(5) through 335-14-7-.08(8) based on his/her engineering judgment.

(ii) Applicants must submit a statement, with Part B of the application, that identifies the conditions necessary to operate during this period in compliance with the performance standards of 335-14-7-.08(5) through 335-14-7-.08(8). This statement should include, at a minimum, restrictions on the operating requirements provided by 335-14-7-.08(3)(e).

(iii) The Department will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of 335-14-7-.08(5) through 335-14-7-.08(8) based on his/her engineering judgment.

4. Final permit period. For the final period of operation, the Department will develop operating requirements in conformance with 335-14-7-.08(3)(e) that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of 335-14-7-.08(5) through 335-14-7-.08(8). Based on the trial burn results, the Department shall make any necessary modifications to the operating requirements to ensure compliance with the performance standards. The permit modification shall proceed according to 335-14-8-.04(3).

(c) Requirements for trial burn plans. The trial burn plan must include the following information. The Department, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of 335-14-8-.06(5):

1. An analysis of each feed stream, including hazardous waste, other fuels, and industrial furnace feed stocks, as fired, that includes:

(i) Heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine/chloride, and ash;

(ii) Viscosity or description of the physical form of the feed stream;

2. An analysis of each hazardous waste, as fired, including:

(i) An identification of any hazardous organic constituents listed in 335-14-2 - Appendix VIII that are present in the feed stream, except that the applicant need not analyze for constituents listed in Appendix VIII that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The waste analysis must be conducted in accordance with appropriate analytical techniques.

(ii) An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by appropriate analytical methods.

(iii) A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with

which the hazardous waste is blended, and blending ratios.

3. A detailed engineering description of the boiler or industrial furnace, including:

(i) Manufacturer's name and model number of the boiler or industrial furnace;

(ii) Type of boiler or industrial furnace;

(iii) Maximum design capacity in appropriate units;

(iv) Description of the feed system for the hazardous waste, and, as appropriate, other fuels and industrial furnace feedstocks;

(v) Capacity of hazardous waste feed system;

(vi) Description of automatic hazardous waste feed cutoff system(s);

(vii) Description of any air pollution control system; and

(viii) Description of stack gas monitoring and any pollution control monitoring systems.

4. A detailed description of sampling and monitoring procedures including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

5. A detailed test schedule for each hazardous waste for which the trial burn is planned, including date(s), duration, quantity of hazardous waste to be burned, and other factors relevant to the Department's decision under 335-14-8-.06(5)(b)2.

6. A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate, and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that may affect the ability of the boiler or industrial furnace to meet the performance standards in 335-14-7-.08(5) through 335-14-7-.08(8).

7. A description of, and planned operating conditions for, any emission control equipment that will be used.

8. Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction.

9. Such other information as the Department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of 335-14-8-.06(5)(c) and the criteria in 335-14-8-.06(5)(b)2.

(d) Trial burn procedures.

1. A trial burn must be conducted to demonstrate conformance with the standards of 335-14-7-.08(5) through 335-14-7-.08(8) under an approved trial burn plan.

2. The Department shall approve a trial burn plan if it finds that:

(i) The trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards of 335-14-7-.08(5) through 335-14-7-.08(8);

(ii) The trial burn itself will not present an imminent hazard to human health and the environment;

(iii) The trial burn will help the Department to determine operating requirements to be specified under 335-14-7-.08(3)(e); and

(iv) The information sought in the trial burn cannot reasonably be developed through other means.

3. The Department must send a notice to all persons on the facility mailing list as set forth in 335-14-8-.08(6)(c)1.(iv) and to the appropriate units of State of Alabama and local government as set forth in 335-14-8-.08(6)(c)1.(v) announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Department has issued such notice.

(i) This notice must be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the Department.

(ii) This notice must contain:

(I) The name and telephone number of applicant’s contact person;

(II) The name and telephone number of the Department contact office;

(III) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

(IV) An expected time period for commencement and completion of the trial burn.

4. The applicant must submit to the Department a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in 335-14-8-.06(5)(c). This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Department.

5. All data collected during any trial burn must be submitted to the Department following completion of the trial burn.

6. All submissions required by 335-14-8-.06(5)(d) must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under 335-14-8-.02(2)).

(e) Special procedures for DRE trial burns. When a DRE trial burn is required under 335-14-7-.08(5)(a), the Department will specify (based on the hazardous waste analysis data and other information in the trial burn plan) as trial Principal Organic Hazardous Constituents (POHCs) those compounds for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Department based on information including its estimate of the difficulty of destroying the constituents identified in the hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived from wastes listed in 335-14-2-.04, the hazardous waste organic constituents(s) identified in 335-14-2 - Appendix VII as the basis for listing.

(f) Determinations based on trial burn. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

1. A quantitative analysis of the levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, thallium, silver, and chlorine/chloride, in the feed streams (hazardous waste, other fuels, and industrial furnace feedstocks);

2. When a DRE trial burn is required under 335-14-7-.08(5)(a):

(i) A quantitative analysis of the trial POHCs in the hazardous waste feed;

(ii) A quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs; and

(iii) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in 335-14-7-.08(5)(a);

3. When a trial burn for chlorinated dioxins and furans is required under 335-14-7-.08(5)(e), a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra-octa congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard;

4. When a trial burn for particulate matter, metals, or HCl/Cl2 is required under 335-14-7-.08(6), 335-14-7-.08(7)(c) or (d), or 335-14-7-.08(8)(b)2. or (c), a quantitative analysis of the stack gas for the concentrations and mass emissions of particulate matter, metals, or hydrogen chloride (HCl) and chlorine (Cl2), and computations showing conformance with the applicable emission performance standards;

5. When a trial burn for DRE, metals, or HCl/Cl2 is required under 335-14-7-.08(5)(a), 335-14-7-.08(7)(c) or (d), or 335-14-7-.08(8)(b)2. or (c), a quantitative analysis of the scrubber water (if any), ash residues, other residues, and products for the purpose of estimating the fate of the trial POHCs, metals and chlorine/chloride;

6. An identification of sources of fugitive emissions and their means of control;

7. A continuous measurement of carbon monoxide (CO), oxygen, and where required, hydrocarbons (HC), in the stack gas; and

8. Such other information as the Department may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in 335-14-7-.08(5) through 335-14-7-.08(8) and to establish the operating conditions required by 335-14-7-.08(3)(e) as necessary to meet those performance standards.

(g) Interim status boilers and industrial furnaces. For the purposes of determining feasibility of compliance with the performance standards of 335-14-7-.08(5) through 335-14-7-.08(8) and of determining adequate operating conditions under 335-14-7-.08(4), applicants owning or operating existing boilers or industrial furnaces operated under the interim status standards of 335-14-7-.08(4) must either prepare and submit a trial burn plan and perform a trial burn in accordance with the requirements of 335-14-8-.06(5) or submit other information as specified in 335-14-8-.02(13)(a)6. The Department must announce its intention to approve the trial burn plan in accordance with the timing and distribution requirements of 335-14-8-.06(5)(d)3. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the Department; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for Department approval of the plan and the time periods during which the trial burn would be conducted. Applicants who submit a trial burn plan and receive approval before submission of the Part B permit application must complete the trial burn and submit the results specified in 335-14-8-.06(5)(f) with the Part B permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Department to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the Department.

(6) Reserved.

(7) Reserved.

(8) Alternative Post-closure Permits. Alternative post-closure permits are special forms of permits that are regulated under 335-14-8-.02(19)(b) and 335-14-8-.08.

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335-14-8-.07 Interim Status - Treatment, Storage, And Disposal Facilities.

(1) Qualifying for interim status.

(a) Any person who owns or operates an "existing HWM facility" or a facility in existence on the effective date of statutory or regulatory amendments under the AHWMMA that render the facility subject to the requirement to have an AHWMMA permit shall have interim status and shall be treated as having been issued a permit to the extent he or she has:

1. Complied with the requirements of Section 3010(a) of RCRA pertaining to notification of hazardous waste activity;

2. Complied with the requirements of 335-14-8-.02(1) governing submission of Part A applications.

(b) If the Department has reason to believe upon examination of a Part A application, that it fails to meet the requirements of 335-14-8-.02(4), it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for the Department's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the Department determines that the application is deficient, it may take appropriate enforcement action.

(c) Hazardous waste disposal facilities which were previously issued a solid waste letter of approval or permit will be granted interim status if they comply fully with 335-14-8-.07.

(d) 335-14-8-.07(1)(a) shall not apply to any facility which has been previously denied a AHWMMA permit or if authority to operate the facility under AHWMMA has been previously terminated.

(2) Operation under interim status.

(a) During the interim status period the facility shall not:

1. Treat, store, or dispose of hazardous waste not specified in Part A of the permit application;

2. Employ processes not specified in Part A of the permit application; or

3. Exceed the design capacities specified in Part A of the permit application.

(b) Interim status standards. During interim status, owners or operators shall comply with the interim status standards in Chapter 335-14-6.

(3) Changes during interim status.

(a) Except as provided in 335-14-8-.07(3)(b) and (c), the owner or operator of an interim status facility may make the following changes at the facility:

1. Treatment, storage, or disposal of newly listed or identified wastes not previously identified in Part A of the permit application, and the addition of the units being used to treat, store, or dispose of the newly listed or identified hazardous wastes provided that the owner or operator has treated, stored or disposed of the newly listed or identified hazardous waste prior to the effective date of the listing or identification if the owner or operator submits a revised Part A permit application thirty days prior to the effective date of the listing or identification for such treatment, storage, or disposal, and the facility is in substantial compliance with all requirements of Division 335-14;

2. Increases in the design capacity of processes used at the facility and the addition of new hazardous wastes not previously identified in Part A of the permit application, and the addition of newly listed or identified hazardous wastes which are not treated, stored, or disposed at the facility prior to the effective date of the listing or identification, if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Department approves the changes because:

(i) There is a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities, or

(ii) The change is necessary to comply with a Federal, State of Alabama, or local requirement.

3. Changes in the processes for the treatment, storage, or disposal of hazardous waste or addition of processes if the owner or operator submits a revised Part A permit application prior to such change (along with a

justification explaining the need for the change) and the Department approves the change because:

(i) The change is necessary to prevent a threat to human health and the environment because of an emergency situation, or

(ii) The change is necessary to comply with a Federal, State of Alabama, or local requirement.

4. Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of operational control of a facility occurs, the previous owner or operator shall comply with the requirements of Rule 335-14-6-.08 (Financial Requirements), until the new owner or operator has demonstrated to the Department that he is complying with the requirements of that Rule. The new owner or operator must demonstrate compliance with Rule 335-14-6-.08 requirements within six months of the date of the change in ownership or operational control of the facility. Upon demonstration to the Department by the new owner or operator of compliance with Rule 335-14-6-.08, the Department shall notify the previous owner or operator in writing that he no longer needs to comply with Rule 335-14-6-.08 as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility.

5. Changes made in accordance with an interim status corrective action order issued by EPA under Section 3008(h) or other Federal authority, by the State of Alabama under comparable State of Alabama authority, or by a court in a judicial action brought by EPA or by the State of Alabama. Changes under 335-14-8-.07(3)(a) are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

6. Addition of newly regulated units for the treatment, storage, or disposal of hazardous waste if the owner or operator submits a revised Part A permit application on or before the date on which the unit becomes subject to the new requirements.

(b) Except as specifically allowed under 335-14-8-.07(3)(b), changes listed under 335-14-8-.07(3)(a) may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous

waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

1. Changes made solely for the purposes of complying with the requirements of 335-14-6-.10(4) for tanks and ancillary equipment.

2. If necessary to comply with Federal, State of Alabama, or local requirements, changes to an existing unit, or changes solely involving tanks or containers.

3. Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

4. Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

5. Changes necessary to comply with an interim status corrective action order issued by EPA under Section 3008(h) or other Federal authority, by the Department under comparable State of Alabama authority, or by a court in a judicial proceeding brought by EPA or the Department, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

6. Changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by Chapter 335-14-9 or RCRA Section 3004, provided that such changes are made solely for the purpose of complying with Chapter 335-14-9 or RCRA Section 3004.

7. Addition of newly regulated units under 335-14-8-.07(3)(a)6.

8. Changes necessary to comply with standards under 40 CFR 63, Subpart EEE - National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.

(c) Except as provided by 335-14-8-.07(3)(a), the addition of new treatment processes, new treatment units, or an increase in design capacity not previously identified in Part A of the permit application and which are subject to the requirements of Rule 335-14-5-.15 or Rule 335-14-6-.15 may not be added as a change during interim status. Such changes may only be made

by applying for and being issued an AHWMMA permit for such treatment processes, treatment units, or design capacity, in accordance with the requirements of Rules 335-14-8-.02 and 8-.03, or by modifying an existing AHWMMA permit in accordance with the requirements of Rule 335-14-8-.04.

(4) Termination of interim status.

(a) Interim status is terminated when:

1. Final administrative disposition of a permit application is made; or

2. The permittee fails to furnish a requested Part B application on time, or to furnish in full the information required by the Part B application.

(b) Interim status may be terminated when:

1. The permittee fails to comply with the applicable requirements of Chapter 335-14-6 or the AHWMMA; or

2. The permittee fails to comply with an Order issued by the Department.

(c) Interim status for each land treatment, storage, or disposal facility which was granted interim status prior to November 8, 1984 is terminated on the effective date of these rules unless:

1. The owner or operator submitted a Part B application for a permit to EPA on or before November 8, 1985; and

2. The owner or operator certified, on or before November 8, 1985, that such facility was in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(d) Interim status for each land treatment, storage, or disposal facility which is in existence on the effective date of statutory or regulatory amendments under the AHWMMA that render the facility subject to the requirement to have an AHWMMA permit will be terminated twelve months after the date on which the facility first becomes subject to such permit requirement unless:

1. The owner or operator submits a Part B application for an AHWMMA permit on or before the date twelve months after the date on which the facility first becomes subject to such permit requirement;

2. The owner or operator certified, on or before the date twelve months after the date on which the facility first

becomes subject to such permit requirement, that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(e) For owners or operators of any land disposal unit that is granted authority to operate under 335-14-8-.07(3)(a)1., 2., or 3., on the date 12 months after the effective date of such requirement, unless the owner or operator certifies that such unit is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(f) For owners and operators of each incinerator facility which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1989, unless the owner or operator of the facility submits a Part B application for a RCRA permit for an incinerator facility by November 8, 1986.

(g) For owners or operators of any facility (other than a land disposal or an incinerator facility) which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1992, unless the owner or operator of the facility submits a Part B application for a RCRA permit for the facility by November 8, 1988.

Author: Stephen C. Maurer; Stephen A. Cobb; Steven O. Jenkins, C. Edwin Johnston; Bradley N. Curvin
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335-14-8-.08 Procedures For Decisionmaking - Treatment, Storage, And Disposal Facility Permits.

(1) Specific Procedures Applicable to AHWMMA Permits.

(a) Pre-application public meeting and notice.

1. Applicability. The requirements of 335-14-8-.08(1)shall apply to all AHWMMA Part B applications seeking initial permits for hazardous waste management units over which ADEM has permit issuance authority. The requirements of 335-14-8-.08(1) shall also apply to AHWMMA Part B applications seeking renewal of permits for such units, where the renewal application is proposing a

significant change in facility operations. For the purposes of 335-14-8-.08(1), a "significant change" is any change that would qualify as a major permit modification under 335-14-8-.04(2). The requirements of 335-14-8-.08(1) do not apply to permit modifications under 335-14-8-.04(2) and (3) or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

2. Prior to the submission of an AHWMMA Part B permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

3. The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under 335-14-8-.08(1)(a)2., and copies of any written comments or materials submitted at the meeting, to the Department as a part of the Part B application, in accordance with 335-14-8-.02(5)(b).

4. The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant must maintain, and provide to the Department upon request, documentation of the notice.

(i) The applicant shall provide public notice in all of the following forms:

(I) A newspaper advertisement. The applicant shall publish a notice, fulfilling the requirements in 335-14-8-.08(1)(a)4.(ii), in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Department shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Department determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.

(II) A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in 335-14-8-.08(1)(a)4.(ii). If the applicant places the sign on the facility property, then

the sign must be large enough to be readable from the nearest point where the public would pass by the site.

(III) A broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in 335-14-8-.08(1)(a)4.(ii), at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Department.

(IV) A notice to the Department. The applicant shall send a copy of the newspaper notice to the Department and to the appropriate units of State of Alabama and local government, in accordance with 335-14-8-.08(6)(c)1.(v).

(ii) The notices required under 335-14-8-.08(1)(a)4.(i) must include:

(I) The date, time, and location of the meeting;

(II) A brief description of the purpose of the meeting;

(III) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

(IV) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

(V) The name, address, and telephone number of a contact person for the applicant.

(b) Public notice requirements at the application stage.

1. Applicability. The requirements of 335-14-8-.08(1) shall apply to all AHWMMA Part B applications seeking initial permits for hazardous waste management units over which ADEM has permit issuance authority. The requirements of 335-14-8-.08(1) shall also apply to AHWMMA Part B applications seeking renewal of permits for such units under 335-14-8-.05(2). The requirements of 335-14-8-.08(1) do not apply to permit modifications pursuant to 335-14-8-.04(2) and (3) or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

2. Notification at application submittal.

(i) The Department shall provide public notice as set forth in 335-14-8-.08(6)(c), and notice to appropriate units of State of Alabama and local government as set forth in 335-14-8-.08(6)(c)1.(v), that a Part B permit application has been submitted to the Department and is available for review.

(ii) The notice shall be published within a reasonable period of time after the application is received by the Department. The notice must include:

(I) The name and telephone number of the applicant's contact person;

(II) The name and telephone number of the Department's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

(III) An address to which people can write in order to be put on the facility mailing list;

(IV) The location where copies of the permit application and any supporting documents can be viewed and copied;

(V) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and

(VI) The date that the application was submitted.

3. Concurrent with the notice required under 335-14-8-.08(1)(b)2., the Department must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the Department's office.

(c) Information repository.

1. Applicability. The requirements of 335-14-8-.08(1) apply to all applications seeking AHWMMA permits for hazardous waste management units over which ADEM has permit issuance authority.

2. The Department may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Department shall

consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Department determines, at any time after submittal of a permit application, that there is a need for a repository, then the Department shall notify the facility that it must establish and maintain an information repository. (See 335-14-8-.03(1)(m) for similar provisions relating to the information repository during the life of a permit.)

3. The information repository shall contain all documents, reports, data, and information deemed necessary by the Department to fulfill the purposes for which the repository is established. The Department shall have the discretion to limit the contents of the repository.

4. The information repository shall be located and maintained at a site chosen by the facility. If the Department finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Department shall specify a more appropriate site.

5. The Department shall specify requirements for informing the public about the information repository. At a minimum, the Department shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

6. The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Department. The Department may close the repository at its discretion, based on the factors in 335-14-8-.08(1)(c)2.

(2) Application for a permit.

(a) Any person who requires a permit shall complete, sign, and submit to the Department an application for each permit required under 335-14-8-.01(1).

(b) The Department shall not begin the processing of a permit until the applicant has fully complied with the requirements for that permit as set out in the applicable portions of 335-14-8.

(c) Permit applications must comply with the signature and certification requirements of 335-14-8-.02(2).

(d) The Department shall review for completeness every application for a permit. Upon completing the review, the Department shall notify the applicant in writing whether the application is complete. If the application is incomplete, the Department shall list the information necessary to make the application complete. The Department shall specify in the notice of deficiency a date for submitting the necessary information. The Department may request any information necessary to clarify, modify, or supplement previously submitted material but requests for items not required by Rules 335-14-8-.02 or 335-14-8-.13 will not render an application incomplete.

(e) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement action may be taken.

(3) Modification, revocation and reissuance or termination of permits.

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Department's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in 335-14-8-.04(2) or (4). All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the Department decides that the request is not justified, it shall send the requester a brief written response giving a reason for the decision. Denials of such requests are not subject to public notice, comment or hearings.

(c)1. If the Department tentatively decides to modify or revoke and reissue a permit under 335-14-8-.04(2), it shall prepare a draft permit under 335-14-8-.08(4) incorporating the proposed changes. The Department may request additional information and, in the case of a modified permit, may require the submission of an updated application. In case of revoked and reissued permits, the Department shall require the submission of a new application.

2. In a permit modification under 335-14-8-.08(3), only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under 335-14-8-.08(3), the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the permittee shall comply with all

conditions of the existing permit until a new final permit is reissued.

3. Minor modifications as defined in 335-14-8-.04(3) are not subject to the requirements of 335-14-8-.08(3).

(d) If the Department tentatively decides to terminate a permit under 335-14-8-.04(4), it shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures of any draft permit prepared under 335-14-8-.08(4).

(4) Draft permits.

(a) Once an application is complete, the Department shall tentatively decide whether to prepare a draft permit or deny the application.

(b) If the Department tentatively decides to deny the permit application, it shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit prepared under 335-14-8-.08(4). If the Department's final decision is that the tentative decision to deny the permit application was incorrect, it shall withdraw the notice of intent to deny and proceed to prepare a draft permit under 335-14-8-.08(4)(c).

(c) If the Department decides to prepare a draft permit, it shall prepare a draft permit that contains the following information:

1. All conditions under 335-14-8-.03(1) and (3);

2. All compliance schedules under 335-14-8-.03(4);

3. All monitoring requirements under 335-14-8-.03(2); and

4. Standards for treatment, storage or disposal and other permit conditions under 335-14-8-.03(1).

(d) Draft permits prepared under 335-14-8-.08(4) shall be accompanied by a fact sheet if required under 335-14-8-.08(5).

(5) Fact sheet.

(a) A fact sheet shall be prepared for every draft permit for a major HWM facility and for every draft permit that the Department finds is the subject of widespread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The Department shall send this fact sheet to the applicant and, upon request, to any other person.

(b) The fact sheet shall include when applicable:

1. A brief description of the type of facility or activity which is the subject of the draft permit;

2. The type and quantity of wastes which are proposed to be or are being treated, stored, or disposed of;

3. A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions;

4. Reasons why any requested variances or alternatives to required standards do not appear justified;

5. A description of the procedures for reaching a final decision on the draft permit including:

(i) The beginning and ending dates of the comment period under 335-14-8-.08(6) and the address where comments will be received;

(ii) Procedures for requesting a hearing or the date and time of the hearing if scheduled at the time the draft permit is issued, and the nature of the hearing;

(iii) Any other procedures by which the public may participate in the final decision; and

6. Name and telephone number of a person to contact for additional information.

(6) Public notice of permit actions and public comment period.

(a) Scope.

1. The Department shall give public notice that the following actions have occurred:

(i) A permit application has been tentatively denied under 335-14-8-.04(4)(b);

(ii) A draft permit has been prepared under 335-14-8-.08(4)(c); or

(iii) A hearing has been scheduled under 335-14-8-.08(8).

2. No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under 335-14-8-.08(3)(b). Written notice of the

denial shall be given to the requester and to the permittee.

3. Public notices may describe more than one permit or permit action.

(b) Timing.

1. Public notice of the preparation of a draft permit required under 335-14-8-.08(6)(a) shall allow at least 45 days for public comment.

2. Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be made in the notice in 335-14-8-.08(6)(b)1.)

(c) Public notice of activities described in 335-14-8-.08(6)(a)1. shall be given by the following methods:

1. By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under 335-14-8-.08(6)(c) may waive his right to receive notice):

(i) The applicant;

(ii) Any other agency which the Department knows has issued or is required to issue a RCRA, UIC, PSD, NPDES or 404 permit for the same facility or activity;

(iii) Federal and State of Alabama agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State of Alabama Historic Preservation Officers, including any affected States (Indian Tribes). (For purposes of 335-14-8-.08(6)(c), and in the context of the Underground Injection Control Program only, the term State includes Indian Tribes treated as States.)

(iv) Persons on a mailing list developed by:

(I) Including those who request in writing to be on the list;

(II) Soliciting persons for area lists from participants in past permit proceedings in that area; and

(III) Notifying the public of the opportunity to be put on the mailing list through periodic

publication in the public press and in such publications as regional and State of Alabama funded newsletters, environmental bulletins, or State of Alabama law journals. The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Department may delete from the list the name of any person who fails to respond to such a request; and (v)(I) To any unit of local government having jurisdiction over the area where the facility is proposed to be located; and

(II) To each State of Alabama agency having any authority under State of Alabama law with respect to the construction or operation of such facility.

2. Publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

3. Any other method reasonably calculated to give actual notice of the action in question to persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(d) Contents.

1. All public notices issued under 335-14-8-.08 shall contain the following minimum information:

(i) Name and address of the office processing the permit action for which the notice is being given;

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(iii) A brief description of the business conducted at the facility or activity described in the permit application;

(iv) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, fact sheet, and the application; and

(v) A brief description of the comment procedures required by 335-14-8-.08(7) and (8) and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other

procedures by which the public may participate in the final permit decision.

2. In addition to the general public notice described in 335-14-8-.06(d)1., of the public notice for a hearing under 335-14-8-.08(8) shall contain the following information:

(i) Reference to the date of previous public notices relating to the permit;

(ii) Date, time, and place of the hearing; and

(e) In addition to the general public notice described in 335-14-8-.08(6)(d)1., all persons identified in 335-14-8-.08(6)(c)1.(i), (ii), and (iii), shall be mailed a copy of the fact sheet, the permit application and the draft permit. Upon determination of the number of these persons, the Department will inform the applicant in writing of that number and the applicant shall provide sufficient copies of the permit application to the Department as requested.

(7) Public comments and request for public hearings. During the public comment period provided under 335-14-8-.08(6), any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in 335-14-8-.08(11).

(8) Public hearings.

(a)1. The Department shall hold a public hearing whenever it finds, on the basis of requests, a significant degree of interest in a draft permit(s);

2. The Department may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision;

3. The Department shall hold a public hearing whenever it receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under 335-14-8-.08(6)(b)1.;

4. The Department shall hold a public hearing on all proposed disposal facility permits;

5. Whenever possible the Department shall schedule a hearing under 335-14-8-.08(8) at a location convenient to the nearest population center to the proposed facility;

6. Public notices of the hearing shall be given as specified in 335-14-8-.08(6).

(b) Any person may submit oral or written statements or data concerning the draft permit. Reasonable time limits may be set upon the time allowed for oral statements and the submission of statements in writing may be required. The comment period will automatically extend to the close of any public hearing under 335-14-8-.08(8). The hearing officer may also extend the comment period by so stating at the hearing.

(c) A written transcript of the public hearing shall be available for public inspection.

(9) Obligation to raise issues and provide information during the public comment period. All persons, including applicants, who believe that any condition of a draft permit is inappropriate or that the Department's tentative decision to deny an application, terminate a permit or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the comment period. Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State of Alabama or federal statutes or regulations, Department documents of general applicability or other generally available reference materials. Commenters shall make supporting documents not already included in the administrative record available to the Department as it shall direct.

(10) Reopening of the public comment period.

(a)1. The Department may order the comment period reopened if the procedures of 335-14-8-.08(10)(a) could expedite the decision making process. When the public comment period is reopened under 335-14-8-.08(10)(a), all persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Department's tentative decision to deny an application, terminate a permit or prepare a draft permit is inappropriate must submit all reasonable available factual grounds supporting their position, including all supporting material, by a date, not less than sixty days after public notice under 335-14-8-.08(10)(a)2., set by the Department. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than twenty days after the date set for filing of the material, set by the Department.

2. Public notice of any comment period under 335-14-8-.08(10)(a) shall identify the issues to which the requirements of 335-14-8-.08(10)(a) apply.

(b) If any data, information, or arguments submitted during the public comment period, including information or arguments required under 335-14-8-.08(9), appear to raise substantial new questions concerning a permit, the Department may take one or more of the following actions:

1. Prepare a new draft permit, appropriately modified, under 335-14-8-.08(4);

2. Prepare a revised fact sheet under 335-14-8-.08(5) and reopen the comment period under 335-14-8-.08(10); or

3. Reopen or extend the comment period under 335-14-8-.08(6) to give interested persons an opportunity to comment on the information or arguments submitted.

(c) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under 335-14-8-.08(6) shall define the scope of the reopening.

(d) Public notice of any of the actions in 335-14-8-.08(10) shall be given as specified in 335-14-8-.08(6).

(11) Response to comments.

(a) At the time any final permit is issued, the Department shall issue a responses to comments. This response shall:

1. Specify which provisions, if any, of the draft permit have been changed in the final permit and the reasons for the change; and

2. Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

(b) The response to comments shall be available to the public.

(12) Issuance of permit. After the close of the public comment period under 335-14-8-.08(6) on a draft permit, the Department shall issue a final permit decision [or a decision to deny a permit for the active life of a AHWMMA hazardous waste management facility or unit under 335-14-8-.02(20)].

(13) Severability. If an appeal of a final permit decision under 335-14-8-.08(12) is sought under Code of Ala. 1975, §22-22A-7 and a portion of the permit decision is stayed as provided in Code of Ala. 1975, §22-22A-7(c)(4):

(a) Uncontested conditions which are not severable from those contested shall be stayed together with the contested conditions;

(b) All other provisions shall remain fully effective and enforceable; and

(c) Existing facilities shall remain subject to the interim status permit standards in Chapter 335-14-6 in lieu of any stayed provisions.

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335-14-8-.09 Permit Application - Transporters.

(1) General application requirements.

(a) Any person who is required to have an Alabama Hazardous Waste Transport Permit or Alabama Used Oil Transport Permit, including new applicants and permittees with expiring permits, shall complete, sign, and submit an application to the Department as described in 335-14-8-.09.

1. A transporter with an Alabama Hazardous Waste Transport Permit may also transport used oil, so long as the transportation of used oil is conducted in accordance with the requirements of Rule 335-14-17-.05

2. A transporter with an Alabama Used Oil Transport Permit may not transport hazardous waste without first applying for, and receiving, an Alabama Hazardous Waste Transport Permit.

(b) The Department shall not issue a permit before receiving a complete application for a permit except for emergency permits. An application for a permit is complete when the Department receives an application and any supplemental information which are completed to the Department's satisfaction.

(c) All applicants shall provide the information set forth in 335-14-8-.09(4).

(d) No applicant shall begin hazardous waste or used oil transportation activities prior to the granting of the

appropriate permit by the Department except as directed by the Department during emergency response.

(e) Any transporter with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit.

(f) Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted to the Department for at least 3 years from the date the application is signed unless the Department extends the time period.

(2) Signatories to permit applications.

(a) All permit applications shall be signed as follows:

1. For a corporation, by a responsible corporate officer. For the purpose of 335-14-8-.09(2), a responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy making or decision making functions for the corporation;

2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

3. For a municipality, State of Alabama, Federal, or other public agency by either a principal executive officer or ranking elected official.

(b) Any person signing a permit application under 335-14-8-.09 shall make the following certification:

"I certify under penalty of law that this permit application and all attachments were prepared under my direction or supervision in a manner to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person(s) who gathered and evaluated the information and of the person(s) responsible for managing the regulated activity, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I understand that it is my responsibility to notify the Department within forty-five (45) days of changes in information in the current permit application."

(3) Confidentiality. An applicant may claim information submitted as confidential if the information is protectable under Code of

Ala. 1975, §22-30-18, as amended. The term "trade secret" as used in §22-30-18 is defined in Code of Ala. 1975, §22-30-3(12).

(4) Contents of the permit application. The permit application under 335-14-8-.09 shall include the following information:

(a) Name, address, telephone number, and EPA identification number of the applicant;

(b) Address(es) and telephone number(s) of any transfer facilities operated by the applicant in Alabama;

(c) A description of the type and scope (numbers and types of vehicles) of operation proposed;

(d) EPA Hazardous Waste Numbers (if applicable), as set out in Chapter 335-14-2, and type of waste (liquids, solids, sludges, gases, dusts, used oil, or others) expected to be transported by the applicant;

(e) A listing of any other environmental permits or authorities granted to the applicant;

(f) Name, address, and telephone number where information, reports, and documents required to be maintained by these regulations may be inspected;

(g) A contingency plan indicating how the applicant will respond to the "worst case" discharge of hazardous waste or used oil, as applicable, during loading, transport, and unloading in order to assure that such discharge does not present a hazard to human health or the environment;

(h) Proof of financial assurance as required under Rule 335-14-4-.04 or 335-14-17-.05(4), whichever is greater in the case of transporters handling both used oil and hazardous waste; and

(i) Evidence of training programs, including a detailed outline of the training programs, undertaken by drivers and other personnel involved with the handling and transportation of hazardous waste and/or used oil, as applicable.

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335-14-8-.10 Permit Conditions - Transporters.

(1) Duty to comply. The permittee must comply with all conditions of the permit, except to the extent and for the duration such noncompliance is authorized in an emergency permit. Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of the AHWMMA and is grounds for enforcement action, permit termination or for denial of a permit renewal application.

(2) Duty to reapply. If the permittee wishes to continue an activity regulated under a permit issued by the Department, the permittee must apply for and obtain a new permit.

(3) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the permit conditions.

(4) Noncompliance. In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out all reasonable necessary steps to prevent significant adverse impact on human health or the environment.

(5) Proper operation and maintenance.

(a) The permittee shall at all times properly operate and maintain all equipment which is used by the permittee to achieve compliance with the permit.

(b) Proper operation and maintenance includes effective performance, adequate funding, and adequate operating staffing and training. Proper operation and maintenance also includes the following:

1. Placement of a copy of the permit as required under Rule 335-14-8-.09(1)(d), in each vehicle hauling hazardous waste or used oil in Alabama.

2. Placement of a copy of the Contingency Plan as required under Rule 335-14-8-.09(4)(g), in each vehicle hauling hazardous waste or used oil in Alabama.

3. Demonstration of knowledge of the Contingency Plan as required under Rule 335-14-8-.09(4)(g), by each driver hauling hazardous waste or used oil in Alabama when inspected by the Department.

(6) Permit actions. This permit may be modified or terminated for cause. A request by the permittee to modify the permit, or a notification of anticipated noncompliance, does not stay any permit condition.

(7) Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

(8) Duty to provide information. The permittee shall furnish to the Department, within a reasonable time, any relevant information which the Department may request to determine whether any cause exists for modifying or terminating the permit, or to determine compliance with the permit.

(9) Inspection and entry. The permittee shall allow duly designated employees of the Department and the Department's representatives to:

(a) Enter at reasonable times upon the permittee's premises where hazardous waste is loaded, unloaded, stored, or transported, or where records, documents, or information required by these regulations are maintained, or into or on transport vehicles used to transport hazardous waste;

(b) Have access to and copy, at reasonable times, any records, documents, or information that must be kept under the conditions of the permit or these regulations;

(c) Inspect at reasonable times any vehicles, facilities, equipment, practices, or operations regulated or required under the permit; and

(d) Sample or monitor any discharges or suspected discharges of hazardous waste at transfer facilities owned or operated by the permittee.

(10) Anticipated noncompliance. The permittee shall give advance notice to the Department of any activity which may result in noncompliance with the permit.

(11) Transfers. A permit under 335-14-8-.10 is not transferable.

(12) Other information. Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, he shall immediately submit such information to the Department.
Author: Stephen C. Maurer; C. Lynn Garthright, James T. Shipman
Statutory Authority: Code of Ala. 1975, §§22-30-11, 22-30-12, 22-30-15.
History: November 19, 1980. **Amended:** April 9, 1986; February 15, 1988; August 24, 1989. **Amended:** Filed: November 30, 1994 effective January 5, 1995. **Amended:** Filed March 9, 2001; effective April 13, 2001. **Amended:** Filed February 28, 2012; effective April 3, 2012.

335-14-8-.11 Changes To Permits - Transporters.

(1) Modification of permits.

(a) When the Department receives any information or receives a request for modification, it will determine whether or not one or more of the causes for modification of permits listed in 335-14-8-.11(1)(a)1. exists. If cause exists, the Department may modify the permit accordingly and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If cause does not exist, the Department shall not modify the permit.

1. The following are causes for modification:

(i) Material and substantial alterations to the operations of the permittee which occurred after issuance of the permit (i.e., the addition of a new transfer facility for used oil or hazardous waste);

(ii) Receipt of information by the Department which indicates that permit conditions must be modified in order to protect human health or the environment;

(iii) The standards or rules upon which the permit was based have been changed by the Department or judicial decision after issuance of the permit, the permittee requests the modification and the permit condition to be modified is based on the standard or regulation which has been changed; and

(iv) Cause exists for termination and the Department determines modification is appropriate.

(b) Upon the consent of the permittee, the Department may modify a permit to correct typographical errors.

(c) A permittee must request a modification of the permit whenever the information provided in the permit application pursuant to Rules 335-14-8-.09(4)(a), (b), (f), or (g) becomes outdated or otherwise inaccurate.

(2) Termination of permits. The following are causes for terminating a permit during its term or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit, any rule under Division 335-14, any requirements of the AHWMMA or any provision of any order issued by the

Department under the authority of the AHWMMA or the Alabama Environmental Management Act;

(b) The permittee's failure during the permit application or issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

Author: Stephen C. Maurer, James T. Shipman
Statutory Authority: Code of Ala. 1975, §§22-30-11, 22-30-12.
History: November 19, 1980. **Amended:** April 9, 1986; February 15, 1988; August 24, 1989. **Amended:** Filed: November 30, 1994 effective January 5, 1995. **Amended:** Filed March 9, 2001; effective April 13, 2001.

335-14-8-.12 Expiration And Continuation Of Permits - Transporters.

(1) Duration of permits.

(a) Transporter permits shall be effective for a fixed term not to exceed three years.

(b) The term of a permit shall not be extended by modification beyond the three year limit.

(c) The Department may issue any permit for a duration that is less than three years.

(2) Continuation of expiring permits.

(a) The conditions of an existing permit continue in force until the effective date of a new permit if:

1. The permittee has submitted a complete application for a new permit at least 180 days prior to expiration of his existing permit; and

2. The Department through no fault of the permittee does not issue a new permit before the expiration date of the existing permit.

(b) Permits continued under 335-14-8-.12 remain fully effective and enforceable.

Author: Stephen C. Maurer, C. Edwin Johnston
Statutory Authority: Code of Ala. 1975, §§22-30-11, 22-30-12.

History: April 9, 1986. **Amended:** August 24, 1989. **Amended:** Filed: November 30, 1994 effective January 5, 1995. **Amended:** Filed March 9, 2001; effective April 13, 2001.

335-14-8-.13 Permit Fees.

No permit application under Rule 335-14-8-.02 or 335-14-8-.09 is complete without payment of the permit application fees specified in Chapter 335-1-6 of the Department's Administrative Code.
Author: Stephen C. Maurer
Statutory Authority: Code of Ala. 1975, §§22-30-11, 22-30-12, 22-22A-5.
History: April 9, 1986. **Amended:** August 24, 1989. **Amended:** Filed: November 30, 1994 effective January 5, 1995.

335-14-8-.14 Reserved.
Author: Stephen A. Cobb, Vernon H. Crockett
Statutory Authority: Code of Ala. 1975, §§22-30-11, 22-30-12, 22-30-16, 22-30-19.
History: **New Rule:** Filed February 25, 2000; effective March 31, 2000. **Amended:** Filed February 8, 2002; effective March 15, 2002. **Amended:** Filed March 13, 2003; effective April 17, 2003. **Repealed:** Filed April 22, 2004; effective May 27, 2004.

335-14-8-.15 Integration With Maximum Achievable Control Technology (MACT) Standards.

(1) Options for incinerators and cement and lightweight aggregate kilns to minimize emissions from startup, shutdown, and malfunction events.

(a) Facilities with existing permits.

1. Revisions to permit conditions after documenting compliance with MACT. The owner or operator of a RCRA-permitted incinerator, cement kiln, or lightweight aggregate kiln may request that the Department address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options when requesting removal of permit conditions that are no longer applicable according to 335-14-5-.15(1)(b) and 335-14-7-.08:

(i) Retain relevant permit conditions. Under this option, the Department will:

(I) Retain permit conditions that address releases during startup, shutdown, and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2); and

(II) Limit applicability of those permit conditions only to when the facility is operating under its startup, shutdown, and malfunction plan.

(ii) Revise relevant permit conditions.

(I) Under this option, the Department will:

I. Identify a subset of relevant existing permit requirements, or develop alternative permit requirements, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history.

II. Retain or add these permit requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan.

(II) Changes that may significantly increase emissions.

I. The facility must notify the Department in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. The facility must notify the Department of such changes within five days of making such changes. The facility must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

II. The Department may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are

minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

A. Upon permit renewal, or, if warranted;

B. By modifying the permit under 335-14-8-.04(2)(a).

(iii) Remove permit conditions. Under this option:

(I) The owner or operator must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the Department under 40 CFR 63.1206(c)(2)(ii)(B); and

(II) The Department will remove permit conditions that are no longer applicable according to 335-14-5-.15(1)(b) and 335-14-7-.08.

2. Addressing permit conditions upon permit reissuance. The owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that has conducted a comprehensive performance test and submitted to the Department a Notification of Compliance documenting compliance with the standards of 40 CFR 63, subpart EEE, may request in the application to reissue the permit for the combustion unit that the Department control emissions from startup, shutdown, and malfunction events under any of the following options:

(i) RCRA option A.

(I) Under this option, the Department will:

I. Include, in the permit, conditions that ensure compliance with 335-14-5-.15(6)(a) and (6)(c) or 335-14-7-.08 to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and

II. Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan; or

(II) Reserved.

(ii) RCRA option B.

(I) Under this option, the Department will:

I. Include, in the permit conditions, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; and

II. Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

(II) Changes that may significantly increase emissions.

I. The facility must notify the Department in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. The facility must notify the Department of such changes within five days of making such changes. The facility must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

II. The Department may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

A. Upon permit renewal, or, if warranted;

B. By modifying the permit under 335-14-8-.04(2)(a); or

(iii) CAA option. Under this option:

(I) The owner or operator must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the Department under 40 CFR 63.1206(c)(2)(ii)(B); and

(II) The Department will omit from the permit conditions that are not applicable under 335-14-5-.15(1)(b) and 335-14-7-.08.

(b) Interim status facilities.

1. Interim status operations. In compliance with 335-14-6-.15(1) and 335-14-7-.08, the owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of 335-14-6 or 335-14-7 may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the Department a Notification of Compliance documenting compliance with the standards of 335-3-11-.06(56):

(i) RCRA option. Under this option, the owner or operator continues to comply with the interim status emission standards and operating requirements of 335-14-6 or 335-14-7 relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events; or

(ii) CAA option. Under this option, the owner or operator is exempt from the interim status standards of 335-14-6 or 335-14-7 relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the Department that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the Department under 40 CFR 63.1206(c)(2)(ii)(B).

2. Operations under a subsequent RCRA permit. When an owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of 335-14-6 or 335-14-7 submits a RCRA permit application, the owner or operator may request that the Department control emissions from startup, shutdown, and malfunction events under any of the options provided by 335-14-8-.15(1)(a)2.(i), (ii), or (iii).

(2) Reserved.

Author: C. Edwin Johnston, Heather M. Jones
Statutory Authority: Code of Ala. 1975, §§22-30-11, 22-30-12, 22-30-16, 22-30-19.
History: **New Rule:** Filed March 13, 2003; effective April 17, 2003. **Amended:** Filed February 28, 2012; effective April 3, 2012.