

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 335
Department or Agency: Alabama Department of Environmental Management Land Division - Solid Waste Program
Rule No.: 335-13-5-.02
Rule Title: Permit Application
Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

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

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

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Jeffery W. Kitchens
Jeffery W. Kitchens

Date

Thursday, June 13, 2024

REC'D & FILED JUN 13, 2024 LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION - SOLID  
WASTE PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

RULE NO. & TITLE: 335-13-5-.02 Permit Application

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Revisions to the ADEM Administrative Code Rule 335-13-5-.02 are being proposed to modify the requirements for an initial application and to make general needed updates.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

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

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, August 8, 2024

CONTACT PERSON AT AGENCY:

Lynn T. Roper, 334-271-7728

*Jeffery W. Kitchens*

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Jeffery W. Kitchens

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

Any person who requires a permit pursuant to this Division shall complete, sign, and submit to the Department an application for each permit required under 335-13-5-.01.

(1) Application Requirements.

(a) Solid Waste Landfills. Landfill units proposed after the effective date of this Division shall obtain permits to construct and/or operate by submitting a permit application consisting of the following in order to request a permit:

1. A completed application form designated by the Department, with applicable fees;

2. Documentation of host government approval, as provided in the Code of Ala. 1975, §22-27-48 and 48.1;

3. Facility design plans and operational procedures in accordance with Permit Application Procedures for Solid Waste Disposal Facilities as prepared by the Department;

4. Technical data and reports to comply with 335-13-4-.01, 335-13-4-.11 through 335-13-4-.24 and this Division; and

5. All technical reports, plans and specifications, plats, geological and hydrological reports required by this Division, prepared under the following:

(i) Plans, specifications, operational procedures, letters of final construction certification and other technical data, except as provided in 335-13-5-.02(1)(a)5.(ii) and (iii) for the construction and operation of a facility, shall be prepared by a professional engineer. The seal or signature and registration number of the design engineer shall be affixed to the plans, specifications and reports.

(ii) Reports, letters of certification and other documents and technical data concerning the siting standards of 335-13-4-.01 shall be prepared by a person with technical expertise in the field of concern.

(iii) Legal property descriptions and survey plats shall be prepared by a land surveyor with the seal or signature and registration number of the land surveyor affixed.

6. The name and mailing address of all property owners whose property, per county tax records, is adjacent to the proposed site shall be submitted as part of a landfill unit's permit application.

7. The Department may waive certain requirements of (a)3. and 4. for those landfill units that will receive for disposal only construction and demolition type waste. A permit application for a C/DLF shall be submitted on a permit application form designated by the Department, which shall specify the minimum requirements for a complete application. The C/DLF permit application shall also include statements signed by a professional engineer and a representative of the facility owner/operator certifying that the information being submitted

is accurate and correct. The submittal of false or inaccurate information shall result in the C/DLF permit application being suspended or denied.

(b) Composting Facilities.

1. The owner or operator of each composting facility in existence on April 3, 2012, shall file an application, including applicable fees, for a permit with the Department no later than June 1, 2012. The owner or operator of each new composting facility desiring to begin operation after April 3, 2012, shall obtain a permit prior to commencing composting activities.

2. Each owner or operator of a composting facility shall submit a permit application prepared by a professional engineer to the Department utilizing a form designated by the Department. In addition to the designated application form, the following information shall be submitted as part of the permit application:

(i) Documentation of host government approval as provided in the Code of Ala. 1975, §22-27-48 and 48.1.

(ii) List of feed stocks to be accepted at the composting facility.

(iii) The operational capacity of the composting facility.

(iv) Legal property description and plat prepared by a land surveyor with the seal or signature and registration number of the land surveyor affixed.

(v) Composting facility design plans and operational plans in accordance with 335-13-14. Design plans and operational plans shall be prepared by a professional engineer. The seal or signature and registration number of the design engineer shall be affixed to the plans.

(vi) A process flow diagram of the entire facility.

(vii) A fire prevention plan.

(viii) A closure plan that at a minimum includes:

(I) Information detailing the removal of all remaining solid waste material from the site as required by rule 335-13-14-.09;

(II) A detailed written estimate, in current dollars, of the cost required to complete closure of the composting facility in accordance with rule 335-13-14-.09; and

(III) A demonstration by the applicant of the ability to provide adequate financial coverage equal to the amount required in rule 335-13-5-.02(1)(b)2.(viii)(II) for the closure of the composting facility.

(ix) The names and mailing address of all property owners whose properties, per county tax records, are adjacent to the proposed site.

(c) CCR Facilities. All solid waste management of CCR generated from the combustion of coal at electrical utilities and independent power producers shall take place in a unit permitted by the Department. New and existing CCR landfills and surface

impoundments shall obtain permits for construction, operation, closure and/or post-closure in accordance with the following:  
1. Existing CCR Surface Impoundments. Except as provided in 335-13-5-.02(1)(c)3., for existing CCR surface impoundments, the owner or operator shall submit the following in order to request a permit:

(i) A completed application form designated by the Department, with applicable fees.

(ii) Boundary plat and legal property description prepared, signed, and sealed by a land surveyor of the boundary of the facility and disposal area of the CCR unit.

(iii) Technical data and reports documenting compliance with the following location requirements:

(I) Five foot separation of the base of the CCR unit and the uppermost aquifer as specified in 335-13-15-.03(1);

(II) Wetland and endangered species requirements under 335-13-15-.03(2);

(III) Fault area requirements under 335-13-15-.03(3);

(IV) Seismic impact zones requirements under 335-13-15-.03(4);

(V) Unstable area requirements under 335-13-15-.03(5); and

(VI) The location requirements under 335-13-15-.01(2)(b) and 335-13-15-.03(6).

(iv) Detailed presentation of geological and hydrogeological units within the disposal site, with typical sections of disposal method and plan and profile sheets on all areas or trenches.

(v) Technical report of the determination of the liner design and type as required by 335-13-15-.04(2).

(vi) Technical report for the hazard potential classification as outlined in 335-13-15-.04(4)(a)2. and the Emergency Action Plan (EAP), if necessary, developed under 335-13-15-.04(4)(a)3.

(vii) For existing CCR surface impoundments that have a height of five feet or more and a storage volume of 20 acre-feet or more, or an existing surface impoundment with a height of 20 feet or more, the application shall include the following:

(I) All the information required by 335-13-15-.04(4)(c)1.(i) through (xii).

(II) Results of the structural stability assessment as required by 335-13-15-.04(4)(d).

(III) Results of the safety factor assessment as required by 335-13-15-.04(4)(e).

(viii) Sufficient control points on-site to provide for accurate horizontal and vertical control for facility construction, operation and closure and post-closure.

(ix) Topographical maps at contour intervals of not more than five feet for the existing ground surface elevation, initial disposal area elevation, and final disposal area elevation. The maps shall also show buffer zones.

- (x) Quality assurance/quality control (QA/QC) plan for all components of the final cover system.
- (xi) An operation plan that includes at a minimum:
  - (I) A CCR fugitive dust control plan developed in accordance with 335-13-15-.05(1).
  - (II) An inflow design flood control system plan developed in accordance with 335-13-15-.05(3).
  - (III) All technical reports, plans and specifications documenting compliance with the requirements of 335-13-15-.05(4) and 335-13-15-.05(6).
  - (IV) A detailed description of the groundwater monitoring and analysis program developed in accordance with 335-13-15-.06.
  - (V) Procedures for compliance with recordkeeping, notification and internet posting as required under 335-13-15-.08.
  - (VI) Procedures for updating all plans and assessments periodically as required by 335-13-15.
- (xii) The written closure and post-closure or retrofit plan developed in accordance with 335-13-15-.07.
- (xiii) Any additional information that may be required by the Department.
- (xiv) The name and mailing address of all property owners whose property, per county tax records, is adjacent to the proposed site.
- (xv) Plans, specifications, operational procedures, letters of final construction certification and other technical data required as part of the application, except as provided in 335-13-5-.02(1)(c)1.(ii) and (xiv), shall be certified by a professional engineer. The seal or signature and registration number of the design engineer shall be affixed to the plans, specifications and reports.

2. New CCR surface impoundments and any lateral expansion of a CCR surface impoundment. For new CCR surface impoundments and any lateral expansion of a CCR surface impoundment, the owner or operator shall submit the following in order to request a permit:

- (i) Except for the requirements of 335-13-5-.02(1)(c)1.(v), (vi), and (vii), the requirements for an existing CCR surface impoundment in 335-13-5-.02(1)(c)1.
- (ii) Technical report for the hazard potential classification as outlined in 335-13-15-.04(5)(a)2. and the Emergency Action Plan (EAP), if necessary, under 335-13-15-.04(5)(a)3.
- (iii) For new CCR surface impoundments that have a height of five feet or more and a storage volume of 20 acre-feet or more, or a surface impoundment with a height of 20 feet or more, the application shall include the following:
  - (I) All the information required by 335-13-15-.04(5)(c)1.(i) through (xii).
  - (II) Results of the structural stability assessment as required by 335-13-15-.04(5)(d).

(III) Results of the safety factor assessment as required by 335-13-15-.04(5) (e).

(iv) Design for the liner as required by 335-13-15-.04(3).

(v) Quality assurance/quality control (QA/QC) plan for all components of the liner.

(vi) Plans, specifications, operational procedures, letters of final construction certification and other technical data required as part of the application, except as provided in 335-13-5-.02(1)(c)1.(ii) and (xiv)., shall be certified by a professional engineer. The seal or signature and registration number of the design engineer shall be affixed to the plans, specifications and reports.

3. For existing CCR surface impoundments that have initiated closure or are otherwise subject to the closure requirements of 335-13-15-.07(2), the owner or operator shall submit all the information as required for an existing CCR surface impoundment in 335-13-5-.02(1)(c)1., except for the requirements of 335-13-5-.02(1)(c)1.(iii), (iv) and (v), to request a closure or post-closure permit or a permit for such operations as may be authorized by 335-13-15-.07(4).

4. Existing CCR Landfills. For existing CCR landfills, the owner or operator shall submit the following to request a permit:

(i) Except for the requirements of 335-13-5-.02(1)(c)1.(iii), (v), (vi), (vii) and (xi) (II) and (III), the requirements for an existing CCR surface impoundment in 335-13-5-.02(1)(c)1.

(ii) Technical data and reports documenting compliance with the following:

(I) Unstable area requirements in 335-13-15-.03(5);

(II) The location requirements under 335-13-15-.01(2)(b) and 335-13-15-.03(6);

(III) Cover requirements under 335-13-15-.05(7)(a);

(IV) Access control requirements of 335-13-15-.05(6)(e);

(iii) An operation plan that includes, at a minimum:

(I) A run-on and run-off control system plan developed in accordance with 335-13-15-.05(2)(c), which should include existing and proposed surface drainage patterns and control structures designed to handle run-on and run-off.

(II) Details of plans for permanent all weather access roads.

(III) All technical reports, plans and specifications documenting compliance with the operational requirements of 335-13-15-.05(1)(d), 335-13-15-.05(5), (6) and (7).

5. New CCR Landfills and any lateral expansion of a CCR Landfill. In addition to the requirements listed in 335-13-5-.02(1)(c)4. above, applications for new CCR landfills and any lateral expansion of a CCR landfill shall include the following in order to request a permit:

(i) Technical data and reports documenting compliance with the following location requirements:

(I) Five foot separation of the base of the CCR unit above the uppermost aquifer as specified in 335-13-15-.03(1).

(II) Wetland and endangered species requirements under 335-13-15-.03(2).

(III) Fault area requirements under 335-13-15-.03(3).

(IV) Seismic impact zones under 335-13-15-.03(4).

(ii) Design of the liner and leachate collection and removal system as required by 335-13-15-.04(1), including a quality assurance/quality control (QA/QC) plan for all components of the liner, leachate collection, and final cover system.

(d) In addition to the requirements listed in 335-13-5-.02(1), the permit application shall also include statements signed by a professional engineer and a representative of the facility owner/operator certifying that the information being submitted is accurate and correct. The submittal of false or inaccurate information shall result in the permit application being suspended or denied.

(2) Permit Renewal Application Requirements.

(a) Permittees requesting to renew an existing permit must do so by submitting a permit renewal application consisting of the following:

1. A completed application form designated by the Department, with applicable fees;

2. ~~Updated technical data, plans or reports, where applicable,~~ Technical data, plans and reports as required under the following:

(i) 335-13-5-.02(1)(a)3. ~~and/or 4~~ through 5., excluding 335-13-5-.02(1)(a)5.(ii), for landfills;

(ii) 335-13-5-.02(1)(b)2. ~~(ii) through (viii)~~ (ii) through (ix) for composting facilities; and

(iii) 335-13-5-.02(1)(c) for CCR units.

3. The name and mailing address of all property owners whose property, per county tax records, is adjacent to the site shall be submitted as part of a renewal application.

4. All renewal applications and supporting documentation shall be prepared in accordance with 335-13-5-.02(1)(d).

(3) Permit Duration. Permits obtained in compliance with this Division shall be valid for the design life of the facility or as otherwise determined by the Department, but no longer than a period of ten years. Permits, however, are subject to revocation under 335-13-5-.05 of this Division.

(4) Filing Deadline. Applications for an extension, renewal, or a new permit for any landfill facility, composting facility or CCR facility shall be filed with the Department by the owner or operator at least 180 days prior to the expiration date for existing permits or the proposed construction date for new facilities. Applications for an initial permit for CCR facilities shall be filed with the Department within 180 days after the original effective date of 335-13-15.

(5) Modifications. Prior to any change listed in 335-13-5-.06(1) and (2), the permittee shall request a modification of the permit as described in 335-13-5-.06(3). A request for modification described in 335-13-5-.06(1) and (2) must be filed with the Department at least 120 days prior to the anticipated change and shall receive approval from the Department prior to the implementation of the proposed change.

(6) Effect of non-compliance.

(a) As determined by the Director, substantial non-compliance with Department regulations or permits at any facility owned or operated by the applicant, including any facility for which the pending permit application is requested, will be grounds for denial of the application, or alternatively, for suspension of further consideration of the application until such non-compliance is corrected.

(b) In addition to the foregoing, the Director may deny a permit application if:

1. The Director determines that a permit could not be issued that would result in compliance with applicable solid waste standards; or
2. The applicant could not comply with the permit as issued.

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

**Statutory Authority:** Code of Ala. 1975, §§22-27-3, 22-27-5, 22-27-7, 22-27-48 and 48.1.

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

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

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

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

**Amended:** Filed June 25, 2019; effective August 9, 2019.

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