

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-.06
Rule Title: Permit Modification
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-.06 Permit Modification

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Revisions to 335-13-5-.06 are being proposed to change references to old forms, for needed adjustments to language regarding modifications, and for inclusion of leachate treatment systems as minor modifications.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

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

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, August 8, 2024

CONTACT PERSON AT AGENCY:

Lynn T. Roper, 334-271-7728

Jeffery W. Kitchens

Jeffery W. Kitchens

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

335-13-5-.06**Permit Modification.**

The Department may modify any permit after receiving a satisfactory request for modification that is found in compliance with ADEM rules and regulations. Permit modifications shall be requested in writing utilizing application forms designated by the Department (ADEM Form 439 for ~~MSWLFs, ILFs and CCR facilities, ADEM Form 305 for C/DLFs~~ landfills and CCR facilities, or ADEM Form 018 for composting facilities) when the permittee proposes to modify its operation in any of the ways listed in 335-13-5-.06(1) or (2). The Department may administratively modify a permit as described in 335-13-5-.06(4).

(1) Major Modifications.

(a) Major modifications are limited to the following actions:

1. There is any change in the permitted service area. The Director may temporarily or on a one-time basis waive permit modification requirements related to service area on a case-by-case basis, if it is demonstrated that a disposal alternative is needed immediately to protect human health or the environment.
2. Convert an industrial landfill (ILF) or construction/demolition landfill (C/DLF) to a municipal solid waste landfill (MSWLF) or convert a construction/demolition landfill (C/DLF) to an industrial landfill (ILF).
3. Addition of a liner and/or leachate collection system or any design change in the existing permitted liner and/or leachate collection system.
4. Addition of acreage to the facility boundary or addition of disposal acreage inside the permitted perimeter where design plans have not been previously submitted.

(b) Modifications required under this paragraph are subject to the provisions of rules 335-13-5-.03 and §335-13-5-.04, which require a public notice and may require a public hearing.

(2) Minor Modifications.

(a) Except as provided in 335-13-5-.06(2)(b), minor modifications are limited to the following actions:

1. Correction of typographical errors and informational changes as requested by the permittee.
2. Changes to remove permit conditions to conform with revised Department guidance or regulations (i.e., permit conditions that are no longer applicable because the standards upon which they were based are no longer applicable to the facility).
3. Changes, by the permittee, to approved applicable plans, as included in the permit application, that increase the frequency, duration or stringency of the actions covered by the applicable plan(s).
4. Addition of a new groundwater monitoring well or replacement of an existing monitoring well (i.e., one that has been damaged or rendered inoperable, as close as possible to the original location, and of similar design and depth).

5. Changes in the statistical analysis method (e.g. changing from interwell or intrawell analysis).
6. Changes in the stormwater conveyance system including, but not limited to, the addition of a sedimentation basin.
7. Changes in fill sequence.
8. Modifications required by 335-13-5-.06(2) (a) are not subject to the provisions of 335-13-5-.03 and 335-13-5-.04, and do not require public notice or a public hearing.

(b) Other Minor Modifications. Modifications not explicitly listed in 335-13-5-.06(1), 335-13-5-.06(2) (a), 335-13-5-.06(4) (a)1., or 335-13-5-.06(4) (b)1. ~~or (2) (a)~~, will be considered a minor modification that would be subject to the provisions of 335-13-5-.03 for public notice and may require a public hearing under 335-13-5-.04. Applicable actions include, but are not limited to, the following:

1. Addition of a waste stream to an ILF, C/DLF or CCR unit.
2. An increase in the average daily volume specified by the permit for a landfill or CCR unit. The Director may temporarily or on a one-time basis waive permit modification requirements related to an increase in the average daily volume on a case-by-case basis, if it is demonstrated that a disposal alternative is needed immediately to protect human health or the environment.
3. Addition of an alternative cover material for daily or weekly cover.
4. For landfill or CCR units undergoing corrective action, incorporation of approved final remedies into the permit, or any changes to the approved final remedy.
5. Any changes to the permitted final fill elevations.
6. Any change to the approved final closure method, as detailed in the closure plan submitted with the approved permit application.
7. Addition of an on-site leachate treatment system or any design change in an existing permitted on-site leachate treatment system.

(c) For any proposed change covered under 335-13-5-.06(2) (b), the permittee may request a determination by the Department that the modification application should be reviewed and approved as a minor modification under 335-13-5-.06(2) (a). To do so, the permittee must provide the Department with the necessary information to support the requested classification. In determining the appropriate classification for a specific modification, the Department shall consider:

1. The similarity of the modification to other modifications listed in 335-13-5-.06(2) (a); and
2. The criteria that the modification(s) 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.

- (3) Procedures. The Permittee shall request a permit modification in accordance with the following procedures:
- (a) Submit a request for modification to the Department at least 120 days prior to the anticipated change.
 - (b) Identify each and every part of the permit or plans to be modified.
 - (c) Submit revised plans and narratives as required by the Department.
 - (d) For those modifications subject to the provisions of 335-13-5-.03 for public notice that may require a public hearing under 335-13-5-.04, 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 the permit modification application.
 - (e) Receive approval from the Department prior to implementing the modification.

(4) Agency Initiated Modifications.

(a) Administrative modifications may be initiated by the Department if any of the following conditions exist:

1. The Department has determined there are typographical or informational errors that need to be corrected;
2. Reserved.

(b) Modifications for cause may be initiated by the Department when:

1. The Department has received supplemental information from a previously approved permitting action that was not available at the time of permit issuance (other than revised regulations, guidance or test methods);
2. 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.

(c) Agency initiated modifications listed in 335-13-5-.06(4)

(a)1. and 335-13-5-.06 (4)(b)1. would be considered a minor modification that may be initiated with the concurrence of the permittee and are not subject to the provisions of 335-13-5-.03 and 335-13-5-.04, and do not require public notice or a public hearing.

(d)Administrative modifications listed in 335-13-5-.06(4)(b)2. would be considered minor modifications that would be subject to the provisions of 335-13-5-.03 for public notice and may require a public hearing under 335-13-5-.04.

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

History: New Rule: 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:** Published October 29, 2021; effective December 13, 2021. **Amended:** Published _____ ; effective _____ .