

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management

Rule No. 335-13-5-.02

Rule Title: Permit Application

 New X Amend Repeal Adopt by Reference

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 and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

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 Mary Elliott

Date January 22, 2018

APA-2

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE:

335-13-5-.02 Permit Application (Amend)
335-13-5-.03 Public Notice (Amend)
335-13-5-.04 Public Hearing (Amend)
335-13-5-.05 Permit Denial, Suspension or Revocation (Amend)
335-13-5-.06 Permit Modification (Amend)
335-13-5-.08 Vertical Expansion (Amend)

INTENDED ACTION: Revise Division 13 of the ADEM Administrative Code.

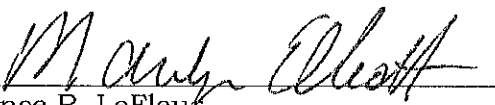
SUBSTANCE OR PROPOSED ACTION: Revise portions of Division 13 Regulations to incorporate changes to ensure consistency with State and Federal Statutes; adopt certain State specific requirements; and provide clarification of State requirements for the management of solid waste, and adopt standards for the disposal of coal combustion residuals (CCR) in landfills and surface impoundments as promulgated by EPA.

Additionally, the definition of "municipal solid waste landfill unit" is proposed to be amended in accordance with EPA's Hazardous Waste Generator Improvements Rule (81 FR 85805, November 28, 2016).

TIME, PLACE, MANNER OF PRESENTING VIEWS: Comments may be submitted in writing or orally at a public hearing to be held Wednesday, March 21, 2018 at 10:30 AM in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: March 21, 2018

CONTACT PERSON AT AGENCY: Eric L. Sanderson, Chief of the Solid Waste Branch, ADEM Land Division (334-271-7755)


Lance R. LeFleur
Director

335-13-5-.02 Permit Application. Existing and proposed landfill units shall obtain permits to construct and/or operate in accordance with the following:

(1) Application Requirements. Landfill units proposed after the effective date of this Division shall submit the following in order to request a permit:

(a) A completed form designated by the Department;

(ab) Documentation of Host government approval, as provided in the Code of Alabama 1975, § 22-27-48 and 48.1;

~~(b) Statement of consistency, as provided in the Code of Alabama 1975, § 22-27-48;~~

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

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

(e) All technical reports, plans and specifications, plats, geological and hydrological reports required by this Division, prepared under the following:

1. Plans, specifications, operational procedures, letters of final construction certification and other technical data, except as provided in 335-13-5-.02(1)(e)2. and 3. for the construction and operation of a facility shall be prepared by an engineer. The seal or signature and registration number of the design engineer shall be affixed to the plans, specifications and reports.

2. 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.

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

(f) The name and mailing address of all property owners whose property is adjacent to the proposed site shall be submitted as part of a landfill unit's permit application.

(g) In addition to the requirements listed in (a) through (f) above the Department may waive certain requirements of (c) and (d) for those landfill units that will receive for disposal only construction and demolition type waste. A permit application for a C/DLF will be submitted on a form developed by the Department which shall specify the minimum requirements for a complete

application. The C/DLF permit application shall also include statements signed by an 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.

(h) CCR Landfills. In addition to the requirements listed in (a) through (f) above, a permit application for an existing CCR landfill shall also include the following:

1. Technical data and reports documenting compliance with the unstable area requirements in 335-13-15-.03(5).

2. 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.

3. A detailed description of the groundwater monitoring and analysis program developed in accordance with 335-13-15-.06.

4. Procedures for complying with recordkeeping and notification as required under 335-13-15-.08.

5. Procedures for updating all plans and assessments periodically as required by ADEM Admin. Code 335-13-15.

6. Any additional information that may be required by the Department.

(i) New CCR Landfills and any lateral expansion of a CCR Landfill. In addition to the requirements listed in (a) through (f) and (h) above, applications for new CCR landfills and any lateral expansion of a CCR landfill shall include the following in order to request a permit:

1. Technical data and reports documenting compliance with the following location requirements:

(i) Five foot separation of the base of the CCR unit from the highest measured groundwater level requirement under 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).

2. Design of the liner and leachate collection and removal system as required by 335-13-15-.04(1).

(2) Permit Duration. Solid waste disposal permits obtained ~~under~~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 five years. Permits, however, are subject to revocation under 335-13-5-.05 of this Division.

(3) Filing Deadline. Request for extension, renewal, or a new permit for any landfill unit shall be filed with the Department by the operating agency at least 180 days prior to the expiration date for existing permits or the proposed construction date for new facilities.

(4) Modifications. Prior to any change in the permitted service area, increasing the volume of waste received or changing the design or operating procedure as described in 335-13-5-.06(1) and (2) and the current permit, the permittee shall request a modification of the permit as described in 335-13-5-.06(3). ~~SA-modification~~ request for modification described in 335-13-5-.06(1) and (2) must be filed with the Department at least 90 days prior to the anticipated change and shall receive approval from the Department prior to the implementation of the proposed change.

(5) 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.

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

History: November 18, 1981.

Amended: March 31, 1988 (Emergency Regulations); July 21, 1988; October 2, 1990; November 2, 1993; July 26, 1996; XXXXX, 2018.