ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

GENERAL ADMINISTRATION

DIVISION 335-1

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ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

GENERAL ADMINISTRATION

DIVISION 335-1

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ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
GENERAL ADMINISTRATION

CHAPTER 335-1-1
ORGANIZATION

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335-1-1-.01 Applicability. This chapter describes the organization of the Commission and the Department and prescribes methods whereby the public may obtain information or make submissions or requests.

Author: Marilyn Elliott.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.
History: August 1, 1988.

335-1-1-.02 Definitions. For purposes of this chapter, the following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

(a) "Act" means the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1, et seq.

(b) "Commission" means the Environmental Management Commission established by the Act.

(c) "Department" means the Alabama Department of Environmental Management, established by the Act.

(d) "Director" means the Director of the Alabama Department of Environmental Management, appointed pursuant to the Act.

(e) "Person" means any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or

other legal entity or other business organization or any governmental entity, and any successor, representative, agent, or agency of the foregoing.

Author: Marilyn Elliott.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.
History: August 1, 1988.

335-1-1-.03 Organization and Duties of the Commission.

(1) The Commission is a statutorily-created seven member commission with the following duties:

(a) To select a Director for the Department of Environmental Management and to advise the Director on environmental matters which are within the Department's scope of authority;

(b) To establish, adopt, promulgate, modify, repeal and suspend any rules, regulations, or environmental standards for the Department which may be applicable to the state as a whole or any of its geographical parts;

(c) To develop environmental policy for the state; and

(d) To hear and determine appeals of administrative actions.

(2) The members of the Commission are appointed for six-year terms by the Governor with the advice and consent of the senate. Position qualifications are as follows:

(a) a physician licensed to practice medicine in the State of Alabama who shall be familiar with environmental matters;

(b) a professional engineer registered in the State of Alabama who shall be familiar with environmental matters;

(c) an attorney licensed to practice law in the State of Alabama who shall be familiar with environmental matters;

(d) a chemist possessing as a minimum a bachelor's degree from an accredited university, or a veterinarian licensed to practice veterinary medicine in the State of Alabama, who shall be familiar with environmental matters;

(e) an individual certified by the national water well association certification program;

(f) a biologist or an ecologist possessing as a minimum a bachelor's degree from an accredited university with training in environmental matters;

(g) a resident of the state for at least two years.

(3) The Commission meets regularly, at least once every two months, and keeps a complete and accurate record of the proceedings of its meetings, a copy of which is on file in the office of the Director and open to public inspection.

(4) Beginning with Fiscal Year 2009 as needed for the effective execution of statutory mandates, and at least every fifth year after the last notice as outlined herein, and in accordance with all applicable statutes and regulations, the Director shall deliver to the Commission a notice of intent to update the Unified Strategic Plan under which the Commission and Department operate. The notice shall contain the Department's summary of departmental goals, timeline for plan development, and a brief explanation of methodology for updating the Unified Strategic Plan. Any and all updates to the Unified Strategic Plan shall be completed within one year of the Director's notice.

(5) Upon receipt of the notice delivered according to paragraph (4) of this rule, the Commission shall appoint a special ad hoc committee to oversee the Department's development and implementation of the planning process.

(6) Any final Unified Strategic Plan produced according to this process shall be approved by the Commission.

Author: Marilyn Elliott; John P. Hagood.
Statutory Authority: Code of Alabama. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.
History: August 1, 1988.
Amended: May 26, 2009.

335-1-1-.04 Organization of the Department.

(1) The Department is under the direction, supervision, and control of the Director who is designated by the Commission.

(2) The Director is assisted by a Deputy Director who is a merit system employee and who has charge and general supervision of the Department in the absence or disability of the Director.

(3) The Director establishes Divisions for the purposes of distributing duties, responsibilities, and work among the various personnel of the Department.

(4) The Deputy Director, Division Chiefs, and all other Departmental personnel are merit system employees selected by the Director consistent with the provisions of merit system law and the rules and regulations of the State Personnel Board.

Author: Marilyn Elliott.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.
History: August 1, 1988.

335-1-1-.05 Duties and Operations of the Department.

(1) To provide for the implementation of environmental programs and policies.

(2) To serve as the state agency responsible for administering federally approved or federally delegated environmental programs.

(3) To provide for a unified environmental regulatory and permit system.

(4) To provide for a coordinated statewide program of air pollution prevention, abatement, and control.

(5) To provide for a coordinated statewide program to assure adequate safeguards for management of hazardous wastes from the point of generation through handling, processing, and final disposition.

(6) To provide for a coordinated statewide program to manage the disposal of solid wastes.

(7) To provide for a coordinated statewide program for the prevention, abatement, and control of new and existing water pollution.

(8) To provide for a coordinated statewide program for the control of public water systems insofar as purity, potability, wholesomeness, and physical quality of water.

(9) To provide for enforcement of the Alabama Coastal Area Management Program designed to preserve, enhance, and develop the valuable resources in Alabama's coastal area.

(10) To issue, modify, suspend, or revoke orders, citations, notices of violation, certifications, or permits.

(11) To provide for the collection of environmental data concerning the quality of the state's air, water, and land resources.

Author: Marilyn Elliott.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.
History: August 1, 1988.

335-1-1-.06 Availability of Records and Information.

(1) Public inspection of records. Except as provided herein, any records, reports, rules, forms, or information obtained under the Act and the official records of the Department shall be available to the public for inspection. Requests for permission to inspect such records should be made to the Department of Environmental Management at its Montgomery, Alabama office, unless otherwise directed in published organizational, procedural, or regulatory statements pertaining to specific records or classes of records. Such requests should state the general subject matter of the records sought to be inspected to permit identification and location.

(2) Exceptions. Upon a showing satisfactory to the Director by any person that records, reports, or information, or particular parts thereof (other than emission, effluent, manifest, or compliance data) to which the Department has access, if made public, would divulge production of sales figures or methods, processes, or production unique to such person, or otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the Director shall consider such records, reports, or information, or particular portion thereof, confidential. Any showing of confidentiality must be based on statutory authority which empowers the Department to grant confidentiality for the particular program in question and must accompany the documents, records, reports, or information provided to the Department. If a claim covering the information is received after the information itself is received, efforts, as are administratively practicable can be made, will be made to associate the late claim with the copies of the previously submitted information in the file.

(3) Requests for records and information must be made to the Office of the Director at the Department's Montgomery address. Responses to such requests shall be made within 10 working days after receipt in the Office of the Director.

(4) Creation of record. Records will not be created by compiling selected items from other documents at the request of a member of the public, nor will records be created to provide the requester with data such as ratios, proportions, percentages, frequency distribution, trends, correlations, or comparisons except as necessary to administer the Act.

(5) Denial of requests for, or non-existence of, information. If it is determined pursuant to this Part that requested information will not be provided or that, to the best knowledge of the Director, requested information does not exist, the Director shall notify in writing the party requesting the information that the request is denied and shall state the reasons for denial and shall maintain a file of such denials.

(6) Copies of documents. If it is determined that information requested may be disclosed, the requesting party shall be afforded the opportunity to obtain copies of the documents containing such information. However, records shall not be released for copying by non-Division personnel

except by permission of the Director or his designee. When a determination not to disclose a portion of information requested has been made, records shall be prepared for copying on nonexcepted portions of the information. Cost of providing copies will be the responsibility of the person requesting the copies. Charges are as follows:

(a) 30 cents per black and white page 8.5 x 11, 8.5 x 14 or 11 x 17 inches in size.

(b) $1.50 per color page 8.5 x 11, 8.5 x 14 or 11 x 17 inches in size. $4.00 per page for black and white and $7.00 per page for color, wide-format documents such as maps and blue prints. Compact discs are $15.00 each for files retrievable from electronic data bases.

(c) 50 cents per page for certified documents.

(d) 10 cents per page rounded to the nearest dollar for paper copies of each Division of the regulations. Compact discs of a Division of the regulations are $15.00.

(e) The Department will not invoice unless the charges exceed $10.00.

(7) Requests which do not reasonably describe records sought. The Department may communicate with the requester to clarify records sought and with a view toward reducing the administrative burden of processing a broad request and minimizing the fees payable by the requester.

(8) Public distribution. Any written request for records prepared by the Department for routine public distribution, e.g. pamphlets, copies of speeches, press releases, and education materials, shall be honored.

(9) Disclosure of information to other agencies. Nothing in these rules and regulations shall be construed to prevent disclosure of any report, record, or information obtained under the Act, or any of the official records of the Commission to federal, or state, agencies, or when relevant in any proceedings under the Act.

Author: Marilyn Elliott, Russell A. Kelly.
Statutory Authority: Code of Alabama 1975, § 22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.
History: August 1, 1988.
Amended: January 28, 2004; July 11, 2006.

335-1-1-.07 Departmental Forms, Instructions, and Procedures.

(1) Designation as the State Environmental Control Agency. The Department is the State Environmental Control Agency for the purposes of federal environmental law including the Federal Clean Air Act, 42 U.S.C. 7401 et seq., as amended; the Federal Clean Water Act, 33 U.S.C. 1251 et seq., as amended; the Federal Safe Drinking Water Act, 42 U.S.C. A 201 et seq., as amended. The Department is authorized to take all actions necessary and appropriate to secure the benefits of federal environmental laws. The Department operates in conformity with such federal laws, policies, and procedures, as provided in the Act.

(2) Policies and Procedures. The Commission, through the adoption of rules pursuant to Code of Alabama 1975, § 22-22A-7(c)(6), establishes environmental policies and procedures.

(3) Form and Instructions. The Director may require such forms within the rules as he deems necessary. The content of such forms and instructions for their completion may be prescribed by the Director including the changes of such from time to time. Federal forms as published by the Environmental Protection Agency may be used in lieu of state developed forms. Departmental forms prescribed by the Director shall be identified and numbered as follows:

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Application for a Permit for the Construction of Single Family Dwellings, Duplexes, or Other Similar Structures on Properties Intersected by the Construction Control Line in the Alabama Coastal Area **M-1**	**328**
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Coalbed Methane Stormwater Inspection Summary Report **M-1**	**343**
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Author: Marilyn Elliott, Russell A. Kelly, Aubrey White
Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.
History: August 1, 1988.
Amended: August 1, 2002; January 23, 2003, August 4, 2004; January 10, 2006; July 11, 2006; November 14, 2006; January 22, 2008; January 19, 2009; January 19, 2010, January 18, 2011; November 29, 2011, November 27, 2012, May 27, 2014, July 28, 2015, August 5, 2016.

335-1-1-.08 Communications with the Department.

(1) Correspondence, applications, reports, or other documents required to be submitted to the Department either by the ADEM Admin. Code, or any permit, order, or directive issued by the Department may be submitted as follows:

(a) By U.S. Mail, addressed to ADEM, at P. O. Box 301463, Montgomery, Alabama 36130-1463. The address shall specifically indicate the individual or program to whom the submission is to be delivered.

(b) By hand delivery or overnight or express mail, addressed to ADEM, 1400 Coliseum Blvd., Montgomery, Alabama 36110-2059. The address shall specifically indicate the individual or program to whom the submission is to be delivered.

(c) By electronic means, in accordance with Ala. Code §§ 8-1A-1 to 8-1A-20 (2002 Rplc. Vol.).

(i) If e-mail is employed, it is the submitter's responsibility to ascertain the correct e-mail address of the individual to whom the submission is to be sent. The correct recipient and his or her e-mail address may be obtained by calling the program to which the submission will be sent.

(ii) The electronic submittal shall contain all required information and be formatted in an electronic file format provided or approved by ADEM.

(iii) The documents may be submitted in electronic form on a compact disk and delivered via e-mail, U.S. mail, hand delivery, or overnight or express mail.

(iv) Where a signature is required but an electronic signature is not otherwise prohibited, a written signature is not necessary for documents sent electronically. An electronic signature, such as an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record is acceptable.

(v) The receipt date for an electronic submittal via e-mail shall be the date and time the document is received by the Department as indicated by the computer software accepting the submission, in accordance with Ala. Code § 8-1A-15 (2002 Rplc. Vol.).

Author: Olivia H. Rowell.
Statutory Authority: Ala. Code § 22-22A-5(3) (2005 Cum. Supp.) and §§ 8-1A-1 to 8-1A-20 (2002 Rplc. Vol.).
History: November 14, 2006.

EXPLANATORY NOTE FOR CHAPTER 335-1-1
GENERAL ADMINISTRATION REGULATIONS

On their effective date, August 1, 1988, portions of these regulations replaced existing regulations covering the issues of organization and availability of public information contained in chapters administered by the Air and Water Divisions of the Department. Specifically, the following regulations were repealed when this chapter was adopted:

1. ADEM Air Regulations Part 1.3--"Organization" of the Air Pollution Control Rules and Regulations.

2. ADEM Air Regulations Part 1.4--"Availability of Records and Information" of the Air Pollution Control Rules and Regulations.

3. ADEM Air Regulations Part 1.5--"Employee Responsibilities and Conduct" of the Air Pollution Control Rules and Regulations.

4. ADEM Water Quality Regulations chapter 335-6-1-.03--"Public Information" of the Water Division - Water Quality Program rules.

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
GENERAL ADMINISTRATION

CHAPTER 335-1-4
PETITIONS FOR DECLARATORY RULINGS

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335-1-4-.01 Applicability. This chapter prescribes the procedures for the submission, consideration and disposition of petitions for declaratory rulings.

Author: David A. Ludder and Ronald W. Farley.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-11.
History: March 6, 1987.

335-1-4-.02 Definitions. For purposes of this chapter, the following words and phrases shall have the following meanings, unless a different meaning is plainly required by the context:

(a) "declaratory ruling" means a written decision identified as a declaratory ruling and issued by the Department with respect to the validity of a rule, the applicability of any rule or statute enforceable by the Department to any person, property, or existing state of facts or facts certain to arise, or the meaning and scope of any order issued by the Department.

(b) "Department" means the Alabama Department of Environmental Management established by the Alabama Environmental Management Act, Code of Alabama 1975, § 22-22A-1 et seq., as amended.

(c) "order" means those orders issued by the Department pursuant to Code of Alabama 1975, § 22-22A-5, as amended, or any other statute administered by the Department.

(d) "person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency as defined in Code of Alabama 1975, § 41-22-3.

Author: David A. Ludder and Ronald W. Farley.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-11.
History: March 6, 1987.

335-1-4-.03 Right to Petition. Any person substantially affected by a rule, order or statute may petition the Department for a declaratory ruling to determine the validity of the rule, the applicability of the rule or statute enforceable by the Department, or the meaning and scope of the order issued by the Department by making and filing a written petition in accordance with rule 335-1-4-.04. At least ten days prior to filing a petition, the prospective petitioner must present in writing the substance of his question to the Department to determine that in the opinion of the Department no previously issued declaratory ruling addresses the question in a manner sufficient to resolve the matter without the need for further consideration by the Department.

Author: David A. Ludder and Ronald W. Farley.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-11.
History: March 6, 1987.

335-1-4-.04 Petition Form and Contents.

(1) A petition requesting a declaratory ruling shall be in writing and shall contain the following information:

(a) the name, address and telephone number of the person making the petition;

(b) a statement identifying the rule, statute or order, and provision thereof, on which the declaratory ruling is sought;

(c) a statement of the exact question presented to the Department for ruling;

(d) a statement of the particular facts sufficient to show that the petitioner is substantially affected by the rule, statute or order on which the declaratory ruling is sought, and sufficient to answer the question presented to the Department for ruling;

(e) a statement identifying all other rules, statutes orders or statements from officials of the Department, whether formal or informal, which are relevant to the question presented by the petitioner;

(f) a statement of the reasons for submitting the petition, including a full disclosure of the petitioner's interest in obtaining the declaratory ruling;

(g) a statement as to whether the question presented by the petitioner is presently pending before or under consideration by the Department or any other adjudicative body;

(h) a statement certifying that the preliminary written inquiry of previously issued declaratory rulings has been made of the Department as required by rule 335-1-4-.03 and providing the details of any reply to his preliminary inquiry including a copy of any written response received; and

(i) subscription and verification of the petition before a notary.

(2) A petition for a declaratory ruling shall be filed with the Department by delivering the same, either personally or by United States Mail as certified mail, return receipt requested with instructions to the delivering postal employee to show to whom delivered, date of delivery, and address where delivered to:

Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110

(3) A petition for declaratory ruling may be accompanied by a memorandum which urges the Department to issue a declaratory ruling of specified content. Such memorandum should contain the arguments therefor any relevant authorities in support thereof.

Author: David A. Ludder and Ronald W. Farley, Russell Kelly.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-11.
History: March 6, 1987.
Amended: January 9, 2002.

335-1-4-.05 Disposition of Petition.

(1) After determining whether any circumstances exist which preclude the issuance of a declaratory ruling under rule 335-1-4-.06, the Department shall, not later than 45 days after receipt of the petition, either:

(a) issue a declaratory ruling;

(b) deny the request for a declaratory ruling; or

(c) fail to respond to the petition in which case the Department's failure to respond shall be deemed to be a denial of the request for a ruling ad well as a denial of the merits of the request.

(2) All declaratory rulings and written denials of the requests for declaratory rulings issued by the Department shall contain an explanation of

the relevant facts and conclusions which served as the basis for the ruling or the denial.

Author: David A. Ludder and Ronald W. Farley.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-11.
History: March 6, 1987.

335-1-4-.06 Circumstances in Which Declaratory Rulings will not be Issued. Circumstances in which declaratory rulings will not be issued include, but are not necessarily limited to:

(a) lack of jurisdiction;

(b) lack of clarity concerning the question presented;

(c) the existence of pending or imminent litigation or administrative action or adjudication which may either answer the question presented by the petition or otherwise make an answer unnecessary;

(d) the petition presents a hypothetical question or otherwise presents an issue not of immediate concern to or having impact on the petitioner;

(e) the statute, rule, or order on which a declaratory ruling is sought is clear and not in need of interpretation to answer the question presented by the petition;

(f) the facts presented in the petition are not sufficient to answer the question presented;

(g) the petition fails to contain any of the information required by rule 335-1-4-.04;

(h) the petitioner is not substantially affected by the rule, statute or order on which a declaratory ruling is sought;

(i) the petitioner is not faced with existing facts or those certain to arise which raise a question concerning the rights, status, or other legal relations between the petitioner and the Department;

(j) no controversy exists concerning the petitioner and regarding the validity of any rule, the applicability of any rule or statute enforceable by the Department or the meaning and scope of any order issued by the Department;

(k) the question presented by the petition concerns the validity of a statute;

(l) the petitioner has not suffered an injury or threatened injury fairly traceable to the validity of any rule, the application of any rule or statute

enforceable by the Department or the meaning or scope of any order issued by the Department; or

(m) the injury suffered by or threatened to the petitioner cannot be remedied by a declaratory ruling or other relief following therefrom.

Author: David A. Ludder and Ronald W. Farley.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-11.
History: March 6, 1987.

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
GENERAL ADMINISTRATION

CHAPTER 335-1-6
APPLICATION FEES

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335-1-6-.06 Other Variance, Certification and License Fees
335-1-6-.07 Payment of Fees

335-1-6-.01 Applicability. The provisions of this chapter shall apply to any person making application to the Department for issuance, reissuance or modification of a permit, registration, license or certification, except as provided in rule 335-1-6-.03.

Author: Marilyn Elliott.
Statutory Authority: Code of Alabama 1975, § 22-22A-5.
History: February 13, 1985.
Amended: January 16, 1997; March 31, 1999.

335-1-6-.02 Definitions. The words or phrases used in this chapter shall have the meanings provided in the rules and regulations applicable to the particular application involved unless the word or phrase is defined in this rule. For the purposes of this chapter, the following words or phrases shall have the following meanings:

(a) "Greenfield site" shall mean a new development or the initial operation of a new facility or a facility or operation not previously permitted.

(b) "Minor NPDES modification" shall mean a termination or a modification not requiring a public notice.

Author: Marilyn Elliott.
Statutory Authority: Code of Alabama 1975, § 22-22A-5.
History: February 13, 1985.
Amended: October 30, 1990; January 16, 1997.

335-1-6-.03 Exemptions. No fee is required for making the following applications:

(a) applications for the issuance, reissuance or modification of permits for Class V wells of the type specified in subparagraph (1)(1.) of rule 335-6-8-.02 provided that no pollutants other than heat are injected and the heating or cooling unit(s) serve only a single family dwelling;

(b) applications for a license, variance or permit modification to correct clerical, typographical or calculation errors; and

(c) applications for the issuance, reissuance, or modification of Operating Permits for Major Sources of air pollution, chapter 335-3-16.

Author: Marilyn Elliott, Russell Kelly.
Statutory Authority: Code of Alabama 1975, § 22-22A-5.
History: February 13, 1985.
Amended: December 28, 1993; January 16, 1997; January 9, 2002.

335-1-6-.04 Permit Application Fees.

(1) Except as provided in paragraph (2) of this rule, any person making application to the Department for the issuance, reissuance or modification of a permit shall be subject to a three-part application fee consisting of the following:

(a) a fee of $1,610 per application relating to a greenfield site. This fee shall not apply to Schedule B and Schedule F or to AFO/CAFO registration in Schedule D if continuing education certification is submitted with initial registration and each annual registration request as required by rule 335-6-7-.18;

(b) a fee which shall be the sum of the fees for each applicable type of permit application, and each action deemed necessary to complete evaluation of the application, as specified in Fee Schedules A through J; and

(c) a public hearing fee of $8,450 if a public hearing relating to the permit application is held.

(2) Any person making application to the Department for modification of a permit to change the name of the permittee only or to transfer the permit only shall be subject to a $800 fee per application.

(3) Fees required by AFO/CAFO registration may be suspended by category by the Director to reflect the budgetary circumstances of the AFO/CAFO program.

Author: Marilyn Elliott, Russell Kelly.
Statutory Authority: Code of Alabama 1975, § 22-22A-5.
History: February 13, 1985.
Amended: October 30, 1990; January 16, 1997; March 31, 1999; January 9, 2002; January 10, 2006; November 14, 2006; January 22, 2008, May 26, 2009; November 29, 2011; July 30, 2013, February 4, 2016.

335-1-6-.05 Water Quality Certification and Coastal Area Management Certification Fees. Any person making application for the issuance, reissuance or modification of a water quality certification pursuant to section 401 of the Federal Water Pollution Control Act, 33 U.S.C. § 1341, and/or making request for a permit or consistency determination pursuant to chapter 335-8-1, shall be subject to the highest applicable fee as provided in Fee Schedule B, as appropriate.

Author: Marilyn Elliott.
Statutory Authority: Code of Alabama 1975, § 22-22A-5.
History: February 13, 1985.
Amended: October 30, 1990; January 16, 1997; November 29, 2011.

335-1-6-.06 Other Certification, Variance and License Fees. Any person making application for the issuance or reissuance of a variance, license or certification shall be subject to a fee as provided in Fee Schedule G.

Author: Marilyn Elliott.
Statutory Authority: Code of Alabama 1975, § 22-22A-5.
History: February 13, 1985.
Amended: October 30, 1990; January 16, 1997.

335-1-6-.07 Payment of Fees.

(1) Payment of permit application/registration fees required under subparagraphs (1)(a) and (1)(b) or paragraph (2) of rule 335-1-6-.04 shall be included with the permit application/registration. No permit application shall be processed without payment of such fees.

(2) Any fee required under subparagraph (1)(c) of rule 335-1-6-.04 shall be billed to the applicant. Payment of such fee shall be made within thirty days of the invoice date. No final decision regarding the permit application shall be made until after payment of such fee. Failure to make payment as provided herein shall constitute cause for non-processing/denial of the permit application.

(3) Payment of fees required under rule 1-6-.05 shall be made within thirty days of the date of the invoice which the Department shall send to the person making the application or request or requiring the certificate.

(4) Payment of fees required under rule 335-1-6-.06 shall be included with the application for such license, variance or certification. No application shall be processed without payment of such fees.

(5) All fees paid pursuant to the requirements of this chapter shall be non-refundable.

(6) All fees and remittances shall be made payable to the Alabama Department of Environmental Management.

Author: Marilyn Elliott, Russell A. Kelly.
Statutory Authority: Code of Alabama 1975, § 22-22A-5.
History: February 13, 1985.
Amended: January 16, 1997; March 31, 1999; January 9, 2002; May 16, 2002; October 4, 2002, August 4, 2004; January 10, 2006; July 11, 2006; November 14, 2006; January 22, 2008; January 19, 2010; November 29, 2011; May 27, 2014, February 4, 2016.

SCHEDULE A
AIR QUALITY PERMITS

Type of Activity	Fee
Permit Preparation (Per Permit)	$1,465
State Regulations Only (Per Permit)	$575
Public Comment Period (Per Application)	$740
NSPS Review (Per Permit/Per NSPS)	$2,795
NESHAPS Review (Per Permit/Per NESHAP)	$2,795
MACT/112(g) Determination (Per Pollutant/Per Determination)	$940
PSD Review (Per Application)	$2,410
BACT Determination (Per Pollutant)	$940
Non-Attainment Review Submittal Fee (Per Application)	$2,410
LAER Determination (Per Permit per Pollutant/Per Determination)	$940
Plantwide Applicablity Limits (PAL) Review (Per Pollutant)	$11,830
Non-Criteria Air Pollutant Review (Per Pollutant)	$1,895
Modeling Review	
Modeling Protocol Review	$2,575
Modeling Review	$19,060
Class 1 Modeling Review	$2,575
Emission Inventory Preparation	$1,460+ $150/point/pollutant
Meteorological Data	$1,085
Adequacy Determination of Preconstruction Monitoring Network/Data	$7,435
Soil Remediation Plan Review	$650
Certification and Recertification of Asbestos Removal Contractors	$740
Name Change	$800 + $150 per permit

FEE SCHEDULE B
COASTAL USE PERMITS STATEWIDE WATER QUALITY CERTIFICATION
AND PROJECT REVIEWS

Type of Activity	Fee
Commercial and/or Residential Development	
a) Commercial and Residential Development greater than 5 acres and less than 25 acres in size.	$9,025
b) Commercial and Residential Development 25 acres or greater and less than l00 acres in size.	$19,070
c) Commercial and Residential Development 100 acres or greater in size.	$25,920
Groundwater extraction from a well having capacity of 50 gpm or more (335-8-2-.09).	$3,995
Construction on Beaches and Dunes (335-8-2-.08)	
a) 1 single family dwelling or 1 duplex.	$1,330
b) 2 single family dwellings or 2 duplexes.	$1,750
c) Commercial (non-residential) structure, multi-unit residential structure having more than 2 units, or any other combination of living units not covered under a) or b) above.	$17,765
d) Hardened erosion control structure, including retaining walls, seawalls, bulkheads and similar structure, or the placement of rip-rap.	$2,035
Beach Nourishment Projects on Gulf Beaches	
a) Gulf Beach Nourishment Project filling less than 1,000 square feet of State waterbottoms.	$1,895
b) Gulf Beach Nourishment Project filling 1,000 square feet to 100,000 square feet of State waterbottoms.	$3,785
c) Gulf Beach Nourishment Project filling greater than 100,000 square feet of State waterbottoms.	$6,985
Projects Impacting Wetlands	
a) Project involving the dredging or filling of less than 1,000 square feet of wetlands.	$2,125
b) Project involving the dredging or filling of 1,000 square feet or more of wetlands.	$4,235
c) Pile Supported residential, multifamily or commercial structure (does not include piers, walkways, gazebos).	$3,940
Projects Impacting Water Bottoms	
a) Project involving the filling of less than 1,000 square feet of water bottom.	$2,125

FEE SCHEDULE B
COASTAL USE PERMITS STATEWIDE WATER QUALITY CERTIFICATION
AND PROJECT REVIEWS

Type of Activity	Fee
b) Project involving the filling of 1,000 square feet or more of water bottom.	$4,235
c) Project involving the dredging of less than 10,000 cubic yards of material from the water bottom.	$2,125
d) Project involving the dredging of 10,000 cubic yards to 100,000 cubic yards of material from the water bottom.	$4,235
e) Project involving the dredging of greater than 100,000 cubic yards of material from the water bottom.	$7,855
f) Project which involves the construction of coastal or inland marinas, canals, or creek relocation or modification.	$4,235
g) Raised creek crossing.	$800
Shoreline Stabilization of Non Gulf-Fronting Properties	
a) Shoreline stabilization project involving less than 200 feet of shoreline stabilization, including bulkhead construction or placement of rip-rap.	$800
b) Shoreline stabilization project involving greater than 200 feet of shoreline stabilization including bulkhead construction or placement of rip-rap.	$1,330
Groin, jetty, and/or other sediment catching shoreline structure.	$1,680
Construction of pile supported pier, dock, boardwalk, or other similar structure.	$800
Siting, construction and operation of energy facility.	$24,480
Mitigation bank project.	$8,730
State agency permits subject to review, not otherwise specified in Schedule B.	$1,680
Federal license or permits not otherwise specified in Schedule B.	$1,680
Project requiring certification for a Federal Energy Regulatory Commission permit or authorization.	$6,550
All other projects and/or consistency reviews not otherwise specified in Schedule B which are subject to ADEM's Division 8 regulations.	$800
Certification transfer or to change the name of the applicant only.	$800
Modifications, and/or time extension, not requiring public notice.	$800
Modifications and/or time extension, requiring public notice shall be one-half the fee listed in schedule B but in no case less than $665.	½ or $800
Additive fee for variance request.	$3,275

FEE SCHEDULE C
HAZARDOUS WASTE PERMITS

TYPE OF ACTIVITY	INITIAL UNIT (1)	NEW DESIGN/ ADDITIONAL UNIT (2)	MINOR MOD (3)	MAJOR MOD (4)	CLOSURE PLAN (5)
Permit Type (6)					
Transport-Hazardous Waste/ Used Oil	$2,105	------	$1,138	$2,105	------
Base Application (Non Transporter) (25)	$6,985	------	------	------	------
Storage (Container/Tank/Containment Building)	$36,475	$27,520	$2,320	$9,025	$8,154
Drip Pad	$36,475	$27,520	$2,320	$9,025	$8,154
Treatment (7)	$46,315	$34,820	$2,915	$11,430	$9,760
Thermal Treatment (8)	$111,550	$83,740	$7,205	$27,740	$9,760
Land Treatment	$62,550	$47,035	$3,940	$15,515	$18,590
Waste Pile	$52,795	$39,760	$3,275	$13,030	$19,590
Surface Impoundment	$85,410	$64,225	$5,400	$21,185	$19,590
Landfill	$107,910	$81,040	$6,860	$26,585	$19,590
Post-Closure (9)	$82,135	$61,760	$5,110	$20,395	------
SWMU Only (10)	$16,310	------	$1,025	$4,070	------
Miscellaneous Units	$93,780	$70,475	$5,820	$23,300	------
Corrective Action Management Unit (17)	$42,380	$31,825	$2,770	$10,640	Varies (18)
Non-Unit Specific Modifications (11)	------	------	$1,160	$5,400	------
Modifications to Incorporate Final Corrective Measures	------	------	------	$14,550	------

FEE SCHEDULE C
HAZARDOUS WASTE PERMITS

TYPE OF ACTIVITY	INITIAL UNIT (1)	NEW DESIGN/ ADDITIONAL UNIT (2)	MINOR MOD (3)	MAJOR MOD (4)	CLOSURE PLAN (5)
ADDITIVE FEES (12)					
Groundwater Contamination (13)					
Plume Undefined	$61,960	$46,460	------	------	------
Plume Defined	$32,615	$24,410	------	------	------
Trial Burn (14)	$16,310	------	------	------	------
RCRA Facility Assessment (RFA) (24)	$16,310	------	------	------	-----
RCRA Facility Investigation (RFI) Certification (15)	$24,470	$18,790	------	------	------
Corrective Action Program (CAP) or Corrective Measures Implementation (CMI) Plan Certification (16)	$42,390	$31,825	$2,780	$10,640	------
Temporary Unit	$35,890	$26,946	$2,330	$8,950	$8,155
Off-Site Waste Analysis Certification (19)	$8,155	------	$810	$2,125	------
Indirect Risk Assessment (20)	$163,105	------	------	------	------
Confirmatory Sampling (CS) Work Plan Certification (21)	$20,395	$15,305	------	------	------
Interim Measures (IM) Work Plan Certification (22)	$20,395	$15,305	------	------	------
Corrective Measures Study (CMS) Certification (23)	$24,755	$18,935	------	------	------

FEE SCHEDULE C (Continued)

EXPLANATORY NOTES

(1) Fee applies to initial unit (design) of a given type at a facility.

(2) Fee applies to additional designs and/or units of the same type unit or process at a given facility.

(3) Refer to rule 335-14-8-.04(3) for classification of minor mods. Each separate mod request requires a separate fee payment. Multiple changes to a permit consolidated in one mod request will be charged a single fee for each applicable unit. (e.g., A facility permitted for container storage and a landfill who requests modifications to both units will be charged the appropriate fee for each unit.)

(4) Refer to rule 335-14-8-.04(2) for classification of major mods. Each separate mod request requires a separate fee payment. Multiple changes to a permit consolidated in one mod request will be charged a single fee for each applicable unit. (e.g., A facility permitted for container storage and a landfill who requests modifications to both units will be charged the appropriate fee for each unit.)

(5) If clean closure is not attained and a post-closure permit is required, then the cost is credited to the post-closure permit fee. Closure plan fees shall be charged per unit to be closed.

(6) Fees for miscellaneous units (rule 335-14-5-.24) and for other units not specifically listed shall be assessed based on the fees established for the permit type most closely analogous to the activity in question. For example, an open burning/open detonation unit would be assessed fees for thermal treatment; a stabilization unit would be assessed fees for treatment; etc.

(7) Fee applies to all treatment units except land treatment units and thermal treatment units.

(8) Fee applies to incinerators, boilers, industrial furnaces, and other thermal treatment units.

(9) Fee applies to each hazardous waste management unit which is subject to post-closure permitting requirements. Multiple units which are closed under a single (common) cap will be charged the fee for a single post-closure unit. Fee also applies to certification of post-closure plans required by order.

(10) Fee applies to permits which include solid waste management unit (SWMU) requirements (pursuant to ADEM Admin. Code rs. 335-14-5-.06(12), 335-14-5-.19, 335-14-8-.02(5)(d), but do not include regulated hazardous waste management unit requirements. This fee applies to facilities which have completed all closure and post-closure requirements for regulated hazardous waste management units, but do not complete all SWMU requirements.

(11) Fee applies to modifications which are not unit specific (i.e., mods not affecting the unit type, design, or configuration). Examples: contingency plan changes, transfer of ownership, personnel training plan changes, changes to groundwater monitoring system, etc.

EXPLANATORY NOTES

(12) Additive fees are levied in addition to base application fees as applicable. Total fees due are sum of base application fees and additive fees applicable to a given facility/application.

(13) Initial fee applies to the first contaminant plume at a facility. The additional unit fee will be charged for each additional, separate plume at the same facility.

(14) Fee applies to each trial burn performed.

(15) Initial fee applies to the first investigation at a facility imposed by the Department under ADEM Admin. Code r. 335-14-5-.06(12). The fee is applicable at the time the investigation is imposed. The additional unit fee will be charged for each additional, separate investigation at the same facility (e.g. an investigation of a newly discovered area of contamination). This fee is also applicable to any investigation required by statute or order that is designed to assess the extent of contamination at a facility or a single unit within a facility.

(16) Fee applies to each separate corrective action program proposal or corrective measures implementation plan submitted. CAPs which integrate multiple technologies (e.g., pump and treat, biological, chemical, physical, etc.) into a single system shall be charged a single fee for the system. Facilities which have multiple separate programs (e.g., two separate groundwater contamination plumes, one remediated using pump and treat and the other using vapor extraction) shall be charged a separate fee for each separate system. This fee is also applicable to passive corrective measures (e.g. land-use restrictions, monitored natural attenuation).

(17) Fee applies to each separate corrective action management unit (CAMU) designated/approved at a facility. This fee is in addition to any other fees applicable to any hazardous waste management units included within a CAMU.

(18) Fee determined based on type of units (Storage - $4,855; Treatment [except Land Treatment] - $5,820; Disposal/Land Treatment - $11,650).

(19) Fee applies to facilities which receive hazardous waste from off-site sources (e.g., commercial facilities).

(20) Fee applies to thermal treatment units required to conduct indirect risk assessments.

(21) Initial fee applies to the first CS work plan at a facility. The additional unit fee will be charged for each additional, separate CS workplan at the same facility.

(22) Initial fee applies to the first IM work plan at a facility. The additional unit fee will be charged for each additional, separate IM workplan at the same facility.

(23) Initial fee applies to the first CMS work plan at a facility. The additional unit fee will be charged for each additional, separate CMS workplan at the same facility.

(24) Fee is charged per each RFA Report prepared for a given facility.

(25) Base application fee calculated for 10-year permit period.

FEE SCHEDULE D
WATER PERMITS

Type of Activity	Initial Registration/Issuance Reissuance or Modification (effluent limit change) (injection zone change or compatibility study)	Modification (no effluent limit change) (no injection zone change or no compatibility study)
Major Industrial Discharger	$17,990	$3,940
Minor Industrial Discharger	$5,615	$3,120
Major Municipal & Private	$7,060	$3,140
Minor Municipal & Private & Water Treatment	$4,290	$2,250
Municipal Stormwater (MS-4)	$7,060	$3,275
Mineral/Resource Extraction Mining, Storage Transloading, Dry Processing	$5,820	$3,400
Wet Preparation, Processing, Beneficiation	$6,860	$3,940
Coalbed Methane	$6,860	$3,940
General Permit	$1,385	$800
Minor NPDES Modifications	-----	$800
ADDITIVE FEES		
Modeling with Data Collection (10 Stations)	$60,390	$60,390
Modeling with Data Collection (5 Stations)	$49,315	$49,315
Modeling - desktop	$4,855	$4,855
Review of Model Performed by Others	$2,705	$2,705
Seasonal Limits	$4,855/ additional season	$4,855/ additional season
Biomonitoring & Toxicity Limits	$1,015	$1,015
316b Phase I, Phase II, and Phase III Facilities [Permit Issuance/Re-issuance Modification]	$5,065	0

FEE SCHEDULE D
WATER PERMITS

Type of Activity	Initial Registration/Issuance Reissuance or Modification (effluent limit change) (injection zone change or compatibility study)	Modification (no effluent limit change) (no injection zone change or no compatibility study)
Review of Site Specific Impingement and Entrainment Studies and/or Comprehensive Demonstration Studies	$40,525[1] 0	
SID		
Indirect Discharge (SID)	$3,850	$2,125
Indirect Discharge with EPA Established Categorical Effluent Guidelines	$4,375	$2,520
UIC		
Class III Well	$33,650	$2,250
Class V Well	$4,290	$2,250
General Permit	$1,385	$800
WATER SUPPLY		
Surface Water Treatment Plant/System	$4,595	$2,250
Distribution System	$2,995	$1,960
Groundwater Supply (Well/System)	$3,715	$1,960
Name Change/Permit Minor Mod	-----	$800
AFO/CAFO Individual Permit	$7,435	$5,820
AFO/CAFO Registration:		
AFO	$450	$150
CAFO:		
1-999 Animal Units	$725	$450
1,000-1,499 Animal Units	$1,390	$815
1,500-1,999 Animal Units	$2,060	$1,175
2,000 or more Animal Units	$2,725	$1,550

[1] Due upon submittal of CDS

FEE SCHEDULE E
SOLID WASTE PERMITS/REGISTRATION

Type of Activity	Initial Issuance	Modification	Reissuance
Medical Waste Transfer			
Facility	$2,035	$725	$1,330
New Technology Review	$10,205	------	------
Commercial Treatment Facility	$16,460	$7,280	$9,180
Commercial Transportation of Medical Waste	$3,490	$1,460	$2,035
Storage of Untreated Medical Waste	$2,630	$665	$1,960
Municipal Solid Waste Landfill	$83,880	------	$18,635
Minor Mod. (1)*	------	$3,275	------
Major Mod. (2)*	------	$32,615	------
Construction/Demolition Waste Landfill	$7,145	------	$2,700
Minor Mod. (1)*	------	$1,460	------
Major Mod. (2)*	------	$2,915	------
Industrial Waste Landfill	$12,670	------	$4,075
Minor Mod. (1)*	------	$1,460	------
Major Mod. (2)*	------	$4,375	------
Compost Facility	$4,860		$1,835
Minor Mod.		$1,225	
Major Mod		$1,945	
ADDITIVE FEES			
Geological Review	$4,865	$3,275	$3,275
Solid Waste Disposal Notification	$215	$215	$215
Variance Request	$1,460	$1,460	$1,460

*1. These are modifications as included in ADEM Admin. Code rule 335-13-5-.06(2).
*2. These are modifications as included in ADEM Admin. Code rule 335-13-5-.06(1).

FEE SCHEDULE F
NPDES CONSTRUCTION MATERIALS, NON-COAL, NON-METALLIC MINING, ETC.

Construction Materials Non-Coal Non-Metallic Mining, Excavation, Borrow, Disturbance, Development Dry Processing Storage, and Transloading Sites Less Than Five Acres Base Annual and Additive Registration and General Permit Authorization Fees.

Description	Base Annual Registration, Authorization Fee	Major Modification Fee 1/	Tier 1 Water Fee Additive Increment Fee 2/
Base Fee – Sites less than 5 acres. (Sites 5 acres and greater require Individual NPDES Permit Coverage)	$670	$430	$305

1/ A Major Modification Additive Increment Fee is required for a request for Major Modification of an existing registration approval or authorization.

2/ An Impacted Watershed Additive Increment Fee, required for all registrations/ authorizations for projects discharging to any Tier 1 water, shall be submitted with each initial registration/authorization request, and each Major Modification Request, and each subsequent annual registration/authorization request.

FEE SCHEDULE G
VARIANCES, CERTIFICATIONS AND LICENSES

Type of Activity	Initial Issuance	Reissuance
Well Driller's License	$200	$200
Water and Wastewater Operator Certification		
Examination Fee	$325	------
Water and Wastewater Operator Certification Issuance Fee	$125	------
Water and Wastewater Operator Certification Renewal via Internet	------	$70
Water and Wastewater Operator Certification Renewal via Mail	------	$95
Water and Wastewater Operator Certification Renewal Late Fee	------	$215[1]
Water and Wastewater Operator Reciprocal Certification	$180	------
Microbiological lab certification	$360	$360
Chemical laboratory certification		
Metals	$360	
Pesticides	$360	
Herbicides	$360	
Volatile Organic Chemicals	$360	
Synthetic Organic Chemicals	$540	
Disinfection Byproducts	$540	
Inorganics	$360	
Radiologicals	$360	
Asbestos	$360	
Dioxin	$360	
Maximum annual chemical lab certification fee	$1,460	
Coastal Variance See Schedule B		

[1] See ADEM Admin. Code r. 335-10-1-.11(3)

Hazardous Waste	Initial Issuance	Modification	Reissuance
Disposal Certification of Waste at a Commercial Hazardous Waste Landfill	$360	$360	$360
Variance from Classification as a Solid Waste Pursuant to ADEM Admin. Code r. 335-14-1-.03(10)	$16,310	------	$16,310
Delisting Certification Pursuant to ADEM Admin. Code r. 335-14-1-.03(2)	$16,310	------	------
Variance from a Hazardous Waste Treatment Standard Pursuant to ADEM Admin. Code r. 335-14-9-.04(5)	$4,375	------	$4,375
Notification of Regulated Waste Activity	$180	------	$180
Variance to be classified as a boiler pursuant to ADEM Admin. Code r. 335-14-1-.03(12)	$4,375	------	$4,375
Variance to extend the effective date of a LDR on a case-by-case basis	$4,375	------	$4,375
Variance to allow land disposal of a prohibited waste	$4,375	------	$4,375
Hazardous Waste Generator Closure Certification	$4,375	------	$4,375

Type of Activity	Initial Issuance	Reissuance	Reissuance After Expiration
Solid Waste Landfill Operator Certification			
Landfill Operator Certification			
Issuance Fee	$125	------	------
Landfill Operator Certification Renewal Fee	------	$95	------
Landfill Operator Certification Late Renewal Fee	------	------	$310
Landfill Operator Reciprocal Certification Fee	$180	------	------

FEE SCHEDULE H
BROWNFIELD REDEVELOPMENT AND VOLUNTARY CLEANUP PROGRAM

Non-Responsible Party Applicant

TYPE OF ACTIVITY	Review Fee	MINOR MODIFICATION	MAJOR MODIFICATION
Application (1)	$5,060	NA	NA
With Variance	$16,855	NA	NA
Assessment Plan Review	$6,740	$1,680	$3,370
Cleanup Plan Review	$13,270	$1,680	$3,370
Letter of Concurrence			
Unconditional	$1,680	NA	NA
Conditional	$4,210	NA	NA
Property Eligibility Determination (2)	$670	NA	NA

Responsible Party Applicant

TYPE OF ACTIVITY	ASSOCIATED FEE	MINOR MODIFICATION	MAJOR MODIFICATION
Application (1)	$5,060	NA	NA
With Variance	$16,855	NA	NA
Assessment Plan Review	$24,470	$2,770	$10,640
Cleanup Plan Review	$43,865	$2,770	$10,640
Letter of Concurrence			
Unconditional	$1,680	NA	NA
Conditional	$4,210	NA	NA
Property Eligibility Determination (2)	$670	NA	NA

(1) Submittal of the appropriate application fee is required prior to the review of any plans, reports, and, or certifications.
(2) Property eligibility determinations are valid for a period of one year from date of issuance.

FEE SCHEDULE I
SCRAP TIRE PROGRAM PERMITS/REGISTRATIONS

Type of Activity	Initial Issuance	Modification	Reissuance
Class One Processor Permit	$3,040	$755	$1,510
Class Two Processor Permit	$2,525	$635	$1,260
Class Three Processor Permit	$2,525	$635	$1,260
Scrap Tire Transporter Permit	$1,015	$260	$510
Limited-use Transporter Permit (see Note1)	$260	------	$260
Registration as an Exempt Processor	$1,015	$260	$510
Registration for Engineered Use of Tire Materials	$1,015	------	------

Note1: A limited-use transporter permit is available to property owners remediating a scrap tire pile on their own property, and shall be issued for a limited amount of time and under conditions as prescribed by ADEM.

See ADEM Admin. Code r. 335-4-3-.03(b) for definitions of processors.

Fee Schedule J
Environmental Covenants Fees

Type of Activity	Initial Issuance	Modification
Processing and Review Fee		
Institutional Controls	$4,285	$1,070
Engineering Controls	$6,425	$1,610
Registry Recording Fee		
For Class 1 controls*	$13,705	$635
For Class 2 controls*	$9,420	$635
For Class 3 controls*	$5,245	$635

* - For classification of institutional and engineering controls, see ADEM Admin. Code r. 335-5-1-.03(h).

Registry Recording Fee also includes costs of performing inspections for a 30-year period.

For sites utilizing both institutional controls and engineering controls, the processing and review fees shall be the greater of the applicable fees.

For sites with more than one classification of institutional or engineering control, the registry recording fee shall be the greater of the applicable fees.

For a property or site containing multiple individually deeded parcels covered by one or more similar covenants, the owner or operator may pay all applicable fees listed in Fee Schedule J or the owner or operator or other responsible party may include a provision in an order or agreement executed between the owner or operator or other responsible person and the Department to pay fees as provided in 335-5-1-.06(e).

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
GENERAL ADMINISTRATION

CHAPTER 335-1-7
AIR DIVISION OPERATING PERMIT FEES

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335-1-7-.01 Applicability. The provisions of this chapter shall apply to any person who operates a stationary source, except as provided in rule 335-1-7-.03.

Author: Richard E. Grusnick.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.
History: December 19, 1991.
Amended: January 16, 1997.

335-1-7-.02 Definitions. The words or phrases used in this chapter shall have the meanings provided in the rules and regulations applicable to the particular application involved unless the word or phrase is defined in this rule. For the purposes of this chapter, the following words or phrases shall have the following meanings:

(a) "Actual emissions" means the actual rate of emissions in tons per year of any regulated air pollutant emitted by a stationary source. Actual emissions shall be calculated using the stationary source's actual operating hours, production rates, and in-place control equipment, types of materials processed, stored, or combusted during the calendar year which precedes the year the fees are due by one year.

(b) "Affected pollutant" means any of the following pollutants: nitrogen oxides, sulfur oxides measured as sulfur dioxide, volatile organic compounds, or particulate matter.

(c) "Consumer price index or CPI" means the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each year.

(d) "Fugitive emissions" are the emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

(e) "Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control belonging to a single major industrial grouping) that is characterized by one of the following categories:

1. emits or has the potential to emit 10 tons per year or more of any hazardous air pollutant which has been listed in section 112(b) in the Clean Air Act (except radionuclides) or 25 tons per year or more of any combination of such hazardous air pollutants. Emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources for hazardous air pollutants.

2. emits or has the potential to emit 100 tons per year or more of any regulated air pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source unless the source belongs to one of the following categories of stationary source:

(i) Coal cleaning plants (with thermal dryers)

(ii) Kraft pulp mills

(iii) Portland Cement plants

(iv) Primary zinc smelters

(v) Iron and steel mills

(vi) Primary aluminum ore reduction plants

(vii) Primary copper smelters

(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day.

(ix) Hydrofluoric, sulfuric, or nitric acid plants

(x) Petroleum refineries

(xi) Lime plants

(xii) Phosphate rock processing plants

(xiii) Coke oven batteries

(xiv) Sulfur recovery plants

(xv) Carbon black plants

(xvi) Primary lead smelters

(xvii) Fuel conversion plants

(xviii) Sintering plants

(xix) Secondary metal production plants

(xx) Chemical process plants

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input.

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.

(xxiii) Taconite ore processing plants.

(xxiv) Glass fiber processing plants.

(xxv) Charcoal production plants.

(xxvi) Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour of heat input.

(xxvii) All other stationary source categories regulated under sections 111 or 112 in the Clean Air Act.

(f) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is federally-enforceable.

(g) "Regulated air pollutant" means the following:

1. nitrogen oxides or any volatile organic compound.

2. any pollutant for which a national ambient air quality standard has been promulgated.

3. any pollutant that is subject to any standard promulgated under section 111 of the Clean Air Act.

4. any pollutant subject to a standard promulgated under section 112 or the requirements established under section 112 of the Act including sections 112(g), and (j) of the Act, including the following:

(i) any pollutant subject to requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.

(h) "Stationary source" means any activity or piece of equipment at a building, structure, facility, or installation that emits or may emit any air pollutant.

Author: Richard E. Grusnick.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.
History: December 19, 1991.
Amended: December 28, 1993; January 16, 1997.

335-1-7-.03 Exemptions.

(1) Stationary sources which are not major sources as defined in 335-1-7-.02 are exempt from annual fee payments.

(2) Stationary sources which are subject to Phase I of Title IV in the 1990 Clean Air Act Amendments are exempt from the payment of fees for the calendar years through 1999.

(3) Fugitive emissions shall be exempt from the fees paid in Schedules A and B of this chapter.

(4) Stationary sources within the boundaries of Jefferson County and the City of Huntsville shall be exempt from the payment of fees if each said source pays an equivalent amount to either the Jefferson County Department of Health or the City of Huntsville Department of Natural Resources and Environmental.

Author: Richard E. Grusnick.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.
History: December 19, 1991.
Amended: January 16, 1997.

335-1-7-.04 Fee Schedule.

(1) Major sources which have actual emissions of 1000 tons or more per year of an affected pollutant in the calendar years 1991, 1992, and 1993 shall pay permit fees to the Department according to Schedule A of this chapter for pollutants which are limited by Division 335-3 regulations or by a permit condition developed pursuant to these requirements.

(2) Major sources which have actual emissions of 100 tons or more per year but less than 1000 tons per year of an affected pollutant in the calendar years 1992 and 1993 shall pay permit fees to the Department according to Schedule B of this chapter for pollutants which are limited by Division 335-3 regulations or by a permit condition developed pursuant to these requirements.

(3) Beginning in calendar year 1997, fees will be due on October 31 for every major source at the rate established by the Department to fund Title V activities of the Department, not to exceed $25 per ton plus the difference in the CPI of the year the fees were assessed and the CPI of 1989 for each regulated pollutant, except carbon monoxide, as defined in rule 335-1-7-.02(g), for the actual emissions during the previous calendar year. Prior to 1997, fees were due on May 1 for every major source at the rate of $25 per ton plus the difference in the CPI of the year the fees were assessed and the CPI of 1989 for each regulated air pollutant, except carbon monoxide, as defined in 335-1-7-.02(g), for the actual emissions during the calendar year 1994. Each subsequent year until 1997, fees were due on May 1 for the emissions of regulated air pollutants during the year which precedes the year the fees are due by one year.

(4) Emissions from a major source of any pollutant subject to fees in this chapter which are emitted at a rate greater than 4000 tons per year shall be defined as 4000 tons per year for the purposes of assessing fees for each said pollutant.

(5) Emissions of a regulated air pollutant shall not be counted more than once in determining fees.

(6) Facilities having paid fees for 1991 and/or, 1992, and/or 1993 emissions as assessed according to Fee Schedules A or B shall be given credit on the amount owed in the following five years (1995-1999), until the sum of the amount paid in 1992, 1993, and 1994 equals the amount of credit allowed. The fee credits shall be subtracted from the total fees due the Department

under paragraph (3) above. The annual total due to the Department shall be calculated as follows:

1995 fees assessed minus 30% 1992-1994 Total

1996 fees assessed minus 25% 1992-1994 Total

1997 fees assessed minus 20% 1992-1994 Total

1998 fees assessed minus 15% 1992-1994 Total

1999 fees assessed minus 10% 1992-1994 Total

(7) Fees required under paragraph (3) of this rule may be reduced to reflect the budgetary circumstances of the Air Division.

Author: Richard E. Grusnick.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.
History: December 19, 1991.
Amended: December 28, 1993; January 16, 1997.

335-1-7-.05 Payment of Fees.

(1) Payment of operating permit fees required under 335-1-7-.04 shall be made on or before May 1 of each year beginning in 1992. However, payment of operating permit fees required under 335-1-7-.04 shall be made on or before October 31 of each year beginning in 1997.

(2) Failure to submit payment as required in this chapter shall be cause for revocation of air permit(s).

(3) Failure to make payment of fees within 30 days of the date the fees are due as provided in 335-1-7-.05(1) shall be cause for the Department to assess a late fee of 3% (of the original fee) per month or fraction thereof.

(4) All fees paid pursuant to the requirements of this chapter shall be non-refundable.

(5) All fees and remittances shall be made payable to the Alabama Department of Environmental Management.

(6) On or before June 30th of each year, the source shall submit its estimate of emissions for the previous calendar year. The Department shall advise the source that it agrees with the actual emission estimate used to calculate the fees, disagrees with the actual emission estimate used to assess the fees or needs additional information. When the Department sends a notification agreeing with actual emission estimates, it may not reassess the fees for the year in question unless it determines that the source intentionally provided erroneous information.

(7) All fees generated by this program will be used to directly and indirectly support the Air Program.

Author: Richard E. Grusnick.
Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.
History: December 19, 1991.
Amended: January 16, 1997.

SCHEDULE A

Due Date	Fee Assessment
May 1, 1992	$7.7 per ton of actual emissions per affected pollutant emitted at a rate of 1000 tons per year or more during the calendar year 1991
May 1, 1993	$12.0 per ton of actual emissions per affected pollutant emitted at a rate of 1000 tons per year or more during the calendar year 1992
May 1, 1994	$18.3 per ton of actual emissions per affected pollutant emitted at a rate of 1000 tons per year or more during the calendar year 1993

SCHEDULE B

Due Date	Fee Assessment
May 1, 1993	$15.7 per ton of actual emissions per affected pollutant emitted at a rate of 100 tons or more per year but less than 1000 tons per year during the calendar year 1992
May 1, 1994	$22.4 per ton of actual emissions per affected pollutant emitted at a rate of 100 tons or more per year but less than 1000 tons per year during the calendar year 1993