

ADA-ES INC
Form 8-K
May 22, 2012

U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

**PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported): May 17, 2012

ADA-ES, INC.

(Name of registrant as specified in its charter)

Colorado
(State or other jurisdiction

of incorporation)

9135 South Ridgeline Boulevard, Suite 200,

000-50216
(Commission

File Number)

84-1457385
(I.R.S. Employer

Identification Number)

80129

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Highlands Ranch, Colorado
(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: (303) 734-1727

Not Applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- .. Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- .. Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- .. Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.02 Termination of a Material Definitive Agreement.

As previously reported, on March 15, 2012, ADA-ES, Inc., a Colorado corporation (ADA), Advanced Emissions Solutions, Inc., a Delaware corporation and wholly owned subsidiary of ADA (AES), and ADA Merger Corp., a Colorado corporation and wholly owned subsidiary of AES (MergerCo), entered into an Agreement and Plan of Merger (the Reorganization Agreement), that provided for the merger (the Merger) of ADA with MergerCo, with ADA surviving the Merger as a wholly owned subsidiary of AES, and the conversion of each share of common stock, no par value per share (ADA Common Stock), of ADA, issued and outstanding immediately prior to the effective time of the Merger into one duly issued, fully paid and nonassessable share of common stock, par value \$0.001 per share (AES Common Stock), of AES (the Reorganization). In addition, each outstanding option to purchase or other right to acquire shares of ADA Common Stock would have automatically converted into an option to purchase or right to acquire, upon the same terms and conditions, an identical number of shares of AES Common Stock. Pursuant to the Reorganization Agreement, AES, a Delaware corporation, would have, in effect, replaced ADA, a Colorado corporation, as the publicly held corporation, and the holders of ADA Common Stock would have held the same number of shares and same ownership percentage of AES after the Reorganization as they held of ADA immediately prior to the Reorganization.

On May 17, 2012, ADA s board of directors determined that it was in the best interests of ADA and its shareholders not to proceed with the Merger at this time in order to provide a definitive date for ADA s 2012 Annual Meeting of Shareholders (Annual Meeting) due to delays in finalizing and mailing proxy materials related to the ongoing review and approval from the U.S. Securities and Exchange Commission (SEC) for the Reorganization and related matters. Therefore, pursuant to Section 5.1 of the Reorganization Agreement, ADA terminated the Reorganization Agreement and will not proceed with Reorganization and the related transactions contemplated thereby at this time. ADA did not incur any early termination penalties by terminating the Reorganization Agreement. As a consequence of the termination, the Reorganization will no longer be submitted for approval to ADA s shareholders at the Annual Meeting which has been rescheduled for July 19, 2012.

Item 7.01 Regulation FD Disclosure.

On May 22, 2012, AES filed with the SEC a Form RW to withdraw the preliminary joint proxy statement/prospectus (subject to completion) as part of its preliminary Registration Statement on Form S-4 relating to the Reorganization Agreement.

Item 8.01 Other Items

On May 22, 2012, ADA issued a press release relating to the termination of the Reorganization Agreement and the rescheduled Annual Meeting. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

| Exhibit No | Description |
|------------|---|
| 99.1 | Press Release, dated May 22, 2012, issued by ADA-ES, Inc. |

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

ADA-ES, INC.

Date: May 22, 2012

By: /s/ Mark McKinnies
Name: Mark McKinnies
Title: Senior Vice President and Chief Financial Officer