

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management  
Rule No. Rule 335-13-15-.09  
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 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

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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.

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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 Maury Elliott

Date: February 20, 2019

(DATE FILED)  
(STAMP)

APA-2

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE:

335-13-1-.03	<u>Definitions</u> (Amend)
335-13-4-.12	<u>Plans and Operational Reports</u> (Amend)
335-13-4-.21	<u>General Operational Standards for Landfill Units</u> (Amend)
335-13-4-.22	<u>Specific Requirements for Municipal Solid Waste Landfills</u> (Amend)
335-13-4-.23	<u>Specific Requirements for Inert-Construction/Demolition Landfills and Industrial Landfills</u> (Amend)
335-13-4-.27	<u>Groundwater Monitoring and Corrective Action</u> (Amend)
335-13-5-.02	<u>Permit Application</u> (Amend)
335-13-5-.03	<u>Public Notice</u> (Amend)
335-13-14-.07	<u>Permitting Requirements</u> (Amend)
335-13-15-.09	<u>Permit Application</u> (Amend)

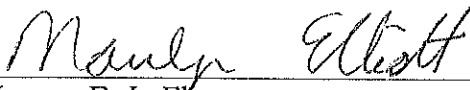
INTENDED ACTION: Revise Division 13 of the ADEM Administrative Code.

SUBSTANCE OR PROPOSED ACTION: Revise portions of Division 13 Regulations to incorporate changes to ensure consistency with State and Federal Statutes and provide clarification of State requirements for the management of solid waste.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Comments may be submitted in writing or orally at a public hearing to be held April 4, 2019 at 1:30 PM in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Boulevard, Montgomery, Alabama 36110-2400.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: April 4, 2019

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

  
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Lance R. LeFleur  
Director

**335-13-15-.09 Permit Application.** All solid waste management of CCR generated from the combustion of coal at electrical utilities and independent power producers shall take place in a CCR unit permitted by the Department. ADEM Admin. Code 335-13-5 outlines the procedures for obtaining a Solid Waste Disposal Permit for new and existing CCR Landfills, including lateral expansions of such units. The following section establishes the minimum requirements and procedures for obtaining a permit for new and existing surface impoundments, including any lateral expansions of such units. New and existing CCR surface impoundments shall obtain permits for construction, operation, closure and/or post-closure in accordance with the following:

(l) Application Requirements.

(a) Existing CCR Surface Impoundments. Except as provided in 335-13-15-.09(1)(c), for existing CCR surface impoundments, the owner or operator shall submit the following in order to request a permit:

1. A completed form designated by the Department.
2. Boundary plat and legal property description prepared, signed, and sealed by a land surveyor of the proposed boundary of the facility and disposal area of the CCR unit.
3. Technical data and reports documenting compliance with the following location requirements:
  - (i) Five foot separation of the base of the CCR unit and highest measured groundwater level in compliance with 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).
  - (v) Unstable area requirements under 335-13-15-.03(5)
4. Detailed presentation of geological and hydrogeological units within the disposal site, with typical sections of disposal method and plan and profile sheets on all areas or trenches.
5. Technical report of the determination of the liner design and type as required by 335-13-15-.04(2).
6. Technical report for the hazardous potential classification as outlined in 335-13-15-.04(4)(a)2. and the Emergency Action Plan (EAP), if necessary, developed under 335-13-15-.04(4)(a)3.

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

- (i) All the information required by 335-13-15-.04(4)(c)1.(i) through (xii).
- (ii) Results of the structural stability assessment as required by 335-13-15-.04(4)(d).
- (iii) Results of the safety factor assessment as required by 335-13-15-.04(4)(e).

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

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

10. Quality assurance/quality control (QA/QC) plan for all components of the final cover system.

11. An operation plan that includes at a minimum:

- (i) A CCR fugitive dust control plan developed in accordance with 335-13-15-.05(1).

- (ii) An inflow design flood control system developed in accordance with 335-13-15-.05(3).

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

- (iii) Procedures for compliance with recordkeeping and notification as required under 335-13-15-.08.

- (iv) Procedures for updating all plans and assessments periodically as required by this chapter.

12. The written closure and post-closure plan developed in accordance with 335-13-15-.07.

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

14. The name and mailing address of all property owners whose property is adjacent to the CCR surface impoundment.

15. Plans, specifications, operational procedures, letters of final construction certification and other technical data required as part of the application, except as provided in 335-13-15-.09(1)(a)2. and 14., shall be certified by a professional engineer. The seal or signature and registration number of the design engineer shall be affixed to the plans, specifications and reports.

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

1. Except for the requirements of 335-13-15-.09(1)(a)5., 6., and 7., the requirements for an existing CCR surface impoundment in 335-13-15-.09(1)(a).

2. Technical report for the hazardous potential classification as outlined in 335-13-15-.04(5)(a)2. and the Emergency Action Plan (EAP), if necessary, under 335-13-15-.04(5)(a)3.

3. For new CCR surface impoundments that has a height of five feet or more and a storage volume of 20 acre-feet or more, or a surface impoundment with a height of 20 feet or more, the application shall include the following:

- (i) All the information contained in 335-13-15-.04(5)(c)1.(i) through (xii).
- (ii) Structural stability assessment as required by 335-13-15-.04(5)(d).
- (iii) Safety factor assessment as required by 335-13-15-.04(5)(e).

4. Design for the liner and leachate collection and removal system as required by 335-13-15-.04(3).

5. Quality assurance/quality control (QA/QC) plan for all components of the liner and leachate collection system.

6. Plans, specifications, operational procedures, letters of final construction certification and other technical data required as part of the application, except as provided in 335-13-15-.09(1)(a)2. and 14., shall be certified by a professional engineer. The seal or signature and registration number of the design engineer shall be affixed to the plans, specifications and reports.

(c) For existing CCR surface impoundments that have initiated closure or are otherwise subject to the closure requirements of 335-13-15-.07(2), the owner or operator shall submit all the information as required for an existing CCR surface impoundment in 335-13-15-.09(1)(a), except for the requirements of 335-13-15-.09(1)(a)3., 4. and 5., to request a closure or post-closure permit or a permit for such operations as may be authorized by 335-13-15-.07(4).

(2) In addition to the requirements listed in 335-13-15-.09(1), the permit application shall also include statements signed by a professional engineer and a representative of the facility owner/operator certifying that the information being submitted is accurate and correct. The submittal of false or inaccurate information shall result in the permit application being suspended or denied.

(3) Permit Duration. CCR surface impoundment permits obtained in compliance with this chapter 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 335-13-15-.12.

(4) Filing Deadline. Requests for an initial permit for an existing surface impoundment shall be filed with the Department within 180 days after the effective date of these rules. Requests for extension, renewal or a new permit for any CCR surface impoundment shall be filed with the Department by the operating agency at least 180 days prior to the expiration date for existing permits or proposed construction date for new facilities.

(5) Modifications. Prior to any change listed in 335-13-15-.13(1) and (2), the permittee shall request a modification of the permit as described in 335-13-15-.13(3). A modification request described in 335-13-15-.13(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.

(6) Effect of non-compliance.

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

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

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

2. The applicant could not comply with the permit as issued.

**Author:** Eric L. Sanderson; Author Note:

**Statutory Authority:** Code of Alabama 1975, §§ 22-27-3, 22-27-7, and 22-27-12

**History:** Filed: April 24, 2018; Effective: June 8, 2018; Proposed: February 20, 2019.