

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
Rule No. 335-6-8-25
Rule Title: Class VI Well Post-Injection Site Care and Site Closure Requirements

X New 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? N/A

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.

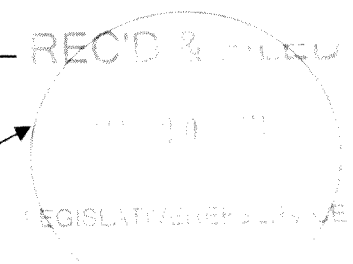
Certification of Authorized Official

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 Reference Service.

Signature of certifying officer Marilyn Elliott

Date May 20, 2011

Date Filed



APA-2
11/96

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
WATER DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

Rule NO.	Title
335-6-8-.01	Purpose
335-6-8-.02	Definitions
335-6-8-.05	Prohibited Actions
335-6-8-.07	Permit Issuance Procedures
335-6-8-.08	Public Notice Requirements
335-6-8-.10	Class V Well Permit Application Requirements
335-6-8-.12	Class V Well Permit Requirements
335-6-8-.13	Class VI Well Applicability and General Requirements
335-6-8-.14	Class VI Well Permit Application and Application Review Requirements
335-6-8-.15	Class VI Well Minimum Criteria for Siting
335-6-8-.16	Class VI Well Area of Review and Area of Review Corrective Action
335-6-8-.17	Class VI Well Financial Responsibility Requirements
335-6-8-.18	Class VI Well Construction Requirements
335-6-8-.19	Class VI Well Logging, Sampling and Testing Requirements Prior to Injection Well Operation
335-6-8-.20	Class VI Well Operating Requirements
335-6-8-.21	Class VI Well Mechanical Integrity Requirements
335-6-8-.22	Class VI Well Testing and Monitoring Requirements
335-6-8-.23	Class VI Well Reporting Requirements
335-6-8-.24	Class VI Well Plugging Requirements
335-6-8-.25	Class VI Well Post-Injection Site Care and Site Closure Requirements
335-6-8-.26	Class VI Well Emergency and Remedial Response Requirements
335-6-8-.27	Class VI Well Permit Requirements
335-6-8-.28	Technical Submittals and Other Reports to the Department
335-6-8-.29	Coordination with EPA
335-6-8-.30	Confidentiality

INTENDED ACTION: Revise Division 6 of the ADEM Administrative Code with the addition or amendment of Rules 335-6-8-.01 (Purpose), 335-6-8-.02 (Definitions), 335-6-8-.05 (Prohibited Actions), 335-6-8-.07 (Permit Issuance Procedures), 335-6-8-.08

(Public Notice), 335-6-8-.10 (Class V Well Permit Application Requirements), 335-6-8-.12 (Permit Issuance Procedures), 335-6-8-.13 (Class VI Well Applicability and General Requirements), 335-6-8-.14 (Class VI Well Permit Application and Application Review Requirements), 335-6-8-.15 (Class VI Well Minimum Criteria for Siting), 335-6-8-.16 (Area of Review and Area of Review Corrective Action), 335-6-8-.17 (Class VI Well Financial Responsibility Requirements), 335-6-8-.18 (Class VI Well Construction Requirements), 335-6-8-.19 (Class VI Well Logging, Sampling and Testing Requirements Prior to Injection Well Operation), 335-6-8-.20 (Class VI Well Operating Requirements), 335-6-8-.21 (Class VI Well Mechanical Integrity Requirements), 335-6-8-.22 (Class VI Well Testing and Monitoring Requirements), 335-6-8-.23 (Class VI Well Reporting Requirements), 335-6-8-.24 (Class VI Well Plugging Plan), 335-6-8-.25 (Post-Injection Site Care and Site Closure Requirements), 335-6-8-.26 (Class VI Well Emergency and Remedial Response Requirements), 335-6-8-.27 (Class VI Well Permit Requirements), 335-6-8-.28 (Technical Submittals and Other Reports to the Department), 335-6-8-.29 (Coordination with EPA), and 335-6-8-.30 (Confidentiality).

SUBSTANCE OF PROPOSED ACTION:

Revisions to the Division 6 Code are being proposed to include requirements for Class VI injection wells, for geologic sequestration of carbon dioxide. The proposed additions and amendments are consistent with the federal regulations for Class VI wells published in the Federal Register on December 10, 2010.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held 1:00 p.m., July 11, 2011, in the ADEM Hearing Room, 1400 Coliseum Blvd., Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: July 11, 2011

CONTACT PERSON AT AGENCY: Sonja Massey (334) 271-7832



Lance R. LeFleur
Director

335-6-8-.25 Class VI Well Post-Injection Site Care and Site Closure Requirements.

(1) The owner or operator of a Class VI well must prepare, maintain, and comply with a plan for post-injection site care and site closure that meets the requirements of paragraph (1)(b) of this rule and is acceptable to the Department. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.

(a) The owner or operator must submit the post-injection site care and site closure plan as a part of the permit application to be approved by the Department.

(b) The post-injection site care and site closure plan must include the following information:

1. The pressure differential between pre-injection and predicted post-injection pressures in the injection zone(s);

2. The predicted position of the carbon dioxide plume and associated pressure front at site closure as demonstrated in the area of review evaluation required under 335-6-8-.16(3)(a);

3. A description of post-injection monitoring location, methods, and proposed frequency;

4. A proposed schedule for submitting post-injection site care monitoring results to the Department and to EPA pursuant to 335-6-8-.23(1)(e); and,

5. The duration of the post-injection site care timeframe and, if approved by the Department, the demonstration of the alternative post-injection site care timeframe that ensures non-endangerment of USDWs.

(c) Upon cessation of injection, owners or operators of Class VI wells must either submit an amended post-injection site care and site closure plan or demonstrate to the Department through monitoring data and modeling results that no amendment to the plan is needed. Any amendments to the post-injection site care and site closure plan must be approved by the Department, be incorporated into the permit, and are subject to the permit modification requirements at 335-6-8-.08 of this chapter, as appropriate.

(d) At any time during the life of the geologic sequestration project, the owner or operator may modify and resubmit the post-injection site care and site closure plan for the Department's approval within 30 days of such change.

(2) The owner or operator shall monitor the site following the cessation of injection to show the position of the carbon dioxide plume and pressure front and demonstrate that USDWs are not being endangered.

(a) Following the cessation of injection, the owner or operator shall continue to conduct monitoring as specified in the Department-approved post-injection site care and site closure plan for at least 50 years or for the duration of the alternative timeframe approved by the Department pursuant to requirements in paragraph (3) of this rule, unless he/she makes a demonstration under (2)(b) of this rule. The monitoring must continue until the geologic sequestration project no longer poses an endangerment to USDWs and the demonstration under (2)(b) of this section is submitted and approved by the Department.

(b) If the owner or operator can demonstrate to the satisfaction of the Department before 50 years or prior to the end of the approved alternative timeframe based on monitoring and other site-specific data, that the geologic sequestration project no longer poses an endangerment to USDWs, the Department may approve an amendment to the post-injection site care and site closure plan to reduce the frequency of monitoring or may authorize the site closure before the end of the 50-year period or prior to the end of the approved alternative timeframe, where he or she has substantial evidence that the geologic sequestration project no longer poses a risk of endangerment to USDWs.

(c) Prior to authorization for site closure, the owner or operator must submit to the Department for review and approval a demonstration, based on monitoring and other site-specific data, that no additional monitoring is needed to ensure that the geologic sequestration project does not pose an endangerment to USDWs.

(d) If the demonstration in paragraph (2)(c) of this section cannot be made (i.e., additional monitoring is needed to ensure that the geologic sequestration project does not pose an endangerment to USDWs) at the end of the 50-year period or at the end of the approved alternative timeframe, or if the Department does not approve the demonstration, the owner or operator must submit to the Department a plan to continue post-injection site care until a demonstration can be made and approved by the Department.

(3) *Demonstration of alternative post-injection site care timeframe.* At the Department's discretion, the Department may approve, in consultation with EPA, an alternative post-injection site care timeframe other than the 50 year default, if an owner or operator can demonstrate during the permitting process that an alternative post-injection site care timeframe is appropriate and ensure non-endangerment of USDWs. The demonstration must be based on significant, site-specific data and information including all data and information collected pursuant to 335-6-8-.14 and 335-6-8-.15, and must contain substantial evidence that the geologic sequestration project will no longer pose a risk of endangerment to USDWs at the end of the alternative post-injection site care timeframe.

(a) A demonstration of an alternative post-injection site care timeframe must include consideration and documentation of:

1. The results of computational modeling performed pursuant to delineation of the area of review under 335-6-8-.16;

2. The predicted timeframe for pressure decline within the injection zone, and any other zones, such that formation fluids may not be forced into any USDWs; and/or the timeframe for pressure decline to pre-injection pressures;

3. The predicted rate of carbon dioxide plume migration within the injection zone, and the predicted timeframe for the cessation of migration;

4. A description of the site-specific processes that will result in carbon dioxide trapping including immobilization by capillary trapping, dissolution, and mineralization at the site;

5. The predicted rate of carbon dioxide trapping in the immobile capillary phase, dissolved phase, and/or mineral phase;

6. The results of laboratory analyses, research studies, and/or field or site-specific studies to verify the information required in 335-6-8-.25(3)(a)4 and 335-6-8-.25(3)(a)5 of this rule;

7. A characterization of the confining zone(s) including a demonstration that it is free of transmissive faults, fractures, and micro-fractures and of appropriate thickness, permeability, and integrity to impede fluid (e.g., carbon dioxide, formation fluids) movement;

8. The presence of potential conduits for fluid movement including planned injection wells and project monitoring wells associated with the proposed geologic sequestration project or any other projects in proximity to the predicted/modeled, final extent of the carbon dioxide plume and area of elevated pressure;

9. A description of the well construction and an assessment of the quality of plugs of all abandoned wells within the area of review;

10. The distance between the injection zone and the nearest USDWs above and/or below the injection zone; and

11. Any additional site-specific factors required by the Department.

(b) Information submitted to support the demonstration in paragraph (3)(a) of this rule must meet the following criteria:

1. All analyses and tests performed to support the demonstration must be accurate, reproducible, and performed in accordance with the established quality assurance standards;

2. Estimation techniques must be appropriate and EPA-certified test protocols must be used where available;

3. Predictive models must be appropriate and tailored to the site conditions, composition of the carbon dioxide stream and injection and site conditions over the life of the geologic sequestration project;

4. Predictive models must be calibrated using existing information (e.g., at Class II, or Class V experimental technology well sites) where sufficient data are available;

5. Reasonably conservative values and modeling assumptions must be used and disclosed to the Department whenever values are estimated on the basis of known, historical information instead of site-specific measurements;

6. An analysis must be performed to identify and assess aspects of the alternative post-injection site care timeframe demonstration that contribute significantly to uncertainty. The owner or operator must conduct sensitivity analyses to determine the effect that significant uncertainty may contribute to the modeling demonstration.

7. An approved quality assurance and quality control plan must address all aspects of the demonstration; and,

8. Any additional criteria required by the Department.

(4) Notice of intent for site closure. The owner or operator must notify the Department in writing at least 120 days before site closure. At this time, if any changes have been made to the original post-injection site care and site closure plan, the owner or operator must also provide the revised plan. The Department may allow for a shorter notice period.

(5) After the Department has authorized site closure, the owner or operator must plug all monitoring wells in a manner which will not allow movement of injection or formation fluids that endangers a USDW.

(6) The owner or operator must submit a site closure report to the Department within 90 days of site closure, which must thereafter be retained at a location designated by the Department for 10 years. The report must include:

(a) Documentation of appropriate injection and monitoring well plugging as specified in 335-6-8-.24 and paragraph (5) of this rule. The owner or operator must provide a copy of a survey plat which has been submitted to the local zoning authority designated by the Department. The plat must indicate the location of the injection well relative to permanently surveyed benchmarks. The owner or operator must also submit a copy of the plat to the Regional Administrator of the appropriate EPA Regional Office;

(b) Documentation of appropriate notification and information to such State, local, and Tribal authorities that have authority over drilling activities to enable such State, local, and Tribal authorities to impose appropriate conditions on subsequent drilling activities that may penetrate the injection and confining zone(s); and

(c) Records reflecting the nature, composition, and volume of the carbon dioxide stream.

(7) Each owner or operator of a Class VI injection well must record a notation on the deed to the facility property or any other document that is normally examined during title search that will in perpetuity provide any potential purchaser of the property the following information:

(a) The fact that land has been used to sequester carbon dioxide;

(b) The name of the State agency, local authority, and/or Tribe with which the survey plat was filed, as well as the address of the Environmental Protection Agency Regional Office to which it was submitted; and

(c) The volume of fluid injected, the injection zone or zones into which it was injected, and the period over which injection occurred.

(8) The owner or operator must retain for 10 years following site closure, records collected during the post-injection site care period. The owner or operator must deliver the records to the Department at the conclusion of the retention period, and the records must thereafter be retained at a location designated by the Department for that purpose.

Author: Sonja Massey.

Statutory Authority: Code of Alabama 1975, §§ 22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.

History: XXXXXX, 2011.