

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION – MEDICAL WASTE PROGRAM
ADMINISTRATIVE CODE**

**CHAPTER 335-17-9
PROCEDURES FOR VARIANCES**

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335-17-9-.01 Variances.

The Department may grant individual variances from the specific provisions of Division 17 based upon the procedures of 335-17-9-.02 through 335-17-9-.05 whenever it is found by the Department, upon presentation of adequate proof, that non-compliance with Division 17 will not threaten the public health or unreasonably create environmental pollution. Variances per se are not favored by the Department.

Author: James L. Bryant, Ashley S. Powell

Statutory Authority: Code of Ala. 1975, §§22-27-9, 22-27-12.

History: New Rule: Published December 31, 2024; effective February 14, 2025.

335-17-9-.02 Petition for Variance.

(1) Applicability. Any person may request a variance from specific provisions of Division 17 by filing a Petition for Variance with the Department.

(2) Petition Requirements. To enable the Department to rule on the Petition for Variance, the following information, where determined applicable by the Department, shall be included in the petition:

- (a) A clear and complete statement of the precise extent of the relief sought including specific identification of the particular provisions of the regulations from which the variance is sought;

(b) An assessment, with supporting factual information, of the impact that the variance will impose on the public health and the environment in the affected area.

(c) Any additional information requested by the Department as necessary to evaluate the variance request.

(d) A concise factual statement of the reasons the petitioner believes that non-compliance with the particular provisions of Division 17 will not threaten the public health or unreasonably create environmental pollution.

(e) Applicable fees in accordance with Division 1.

Author: James L. Bryant, Ashley S. Powell

Statutory Authority: Code of Ala. 1975, §§22-27-9, 22-27-12.

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335-17-9-.03 Extension of Prior or Existing Variance.

A petition to extend a prior or existing variance granted by the Department shall be commenced by filing a Petition for Variance with the Department in accordance with the requirements of 335-17-9-.02.

(1) To the extent that the information required by 335-17-9-.02 has been included in the prior Petition for Variance for which extension is sought, a submission of that information shall not be required provided that the petition shall request the incorporation of the record, opinion and order in the prior proceeding into the new petition.

(2) A petition to extend a prior or existing variance shall be a new petition for Variance before the Department and shall be subject to all of the requirements of this Division except as provided in 335-17-9-.03(1).

Author: James L. Bryant, Ashley S. Powell

Statutory Authority: Code of Ala. 1975, §§22-27-9, 22-27-12.

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335-17-9-.04 Department Action on Petition for Variance.

On receipt of a Variance Petition the Department will authorize one of the following actions, as they shall determine:

(1) The petition may be dismissed if the Department determines that it is not adequate under 335-17-9-.02.

(2) The Department may grant the variance as petitioned or by imposing such conditions as this Division may require, including the establishment of schedules of compliance and monitoring requirements.

(3) The Department may deny the petition. If such a denial is made, the Department shall notify the petitioner in writing the reasons for denial and outline procedures for appeal.

Author: James L. Bryant, Ashley S. Powell

Statutory Authority: Code of Ala. 1975, §§22-27-9, 22-27-12.

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335-17-9-.05 Termination of Variance.

Any variance granted by the Department may be terminated by the Department whenever the Department finds, after notice and opportunity for hearing, that the petitioner is in violation of any requirement, condition, schedule, limitation or any other provision of the variance or that operation under the variance does not meet the minimum requirements established by state and federal laws and regulations or is unreasonably threatening the public health.

Author: James L. Bryant, Ashley S. Powell

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