

§ 143-215.27A. Closure of coal combustion residuals surface impoundments to render such facilities exempt from the North Carolina Dam Safety Law of 1967.

(a) Decommissioning Request. – The owner of a coal combustion residuals surface impoundment, as defined by G.S. 130A-309.201, that seeks to decommission the impoundment shall submit a Decommissioning Request to the Division of Energy, Mineral, and Land Resources of the Department requesting that the facility be decommissioned. The Decommissioning Request shall include, at a minimum, all of the following:

- (1) A proposed geotechnical investigation plan scope of work. Upon preliminary plan approval pursuant to subsection (b) of this section, the owner shall proceed with necessary field work and submit a geotechnical report with site-specific field data indicating that the containment dam and material impounded by the containment dam are stable, and that the impounded material is not subject to liquid flow behavior under expected static and dynamic loading conditions. Material testing should be performed along the full extent of the containment dam and in a pattern throughout the area of impounded material.
- (2) A topographic map depicting existing conditions of the containment dam and impoundment area at two-foot contour intervals or less.
- (3) If the facility contains areas capable of impounding by topography, a breach plan must be included that ensures that there shall be no place within the facility capable of impounding. The breach plan shall include, at a minimum, proposed grading contours superimposed on the existing topographic map as well as necessary engineering calculations, construction details, and construction specifications.
- (4) A permanent vegetation and stabilization or capping plan by synthetic liner or other means, if needed. These plans shall include at minimum, proposed grading contours superimposed on the existing topographic map where applicable as well as necessary engineering calculations, construction details, construction specifications, and all details for the establishment of surface area stabilization.
- (5) A statement indicating that the impoundment facility has not received sluiced coal combustion residuals for at least three years and that there are no future plans to place coal combustion residuals in the facility by sluicing methods. The Division of Energy, Mineral, and Land Resources may waive the three-year requirement if proper evidence is presented by a North Carolina registered professional engineer indicating that the impounded material is not subject to liquid flow behavior.

(b) Preliminary Review and Approval. – The Decommissioning Request shall undergo a preliminary review by the Division for completeness and approval of the proposed geotechnical investigation plan scope of work. The owner shall be notified by letter with results of the preliminary review, including approval or revision requests relative to the proposed scope of work included in the geotechnical investigation plan. Upon receipt of a letter issued by the Division approving the preliminary geotechnical plan scope of work, the owner may proceed with field work and development of the geotechnical report.

(c) Final Determination and Approval. – Upon receipt of the geotechnical report, the Division shall complete the submittal review as provided in this subsection.

- (1) If it is determined that sufficient evidence has been presented to clearly show that the facility no longer functions as a dam in its current state, a letter

decommissioning the facility shall be issued by the Division, and the facility shall no longer be under jurisdiction of the Dam Safety Law of 1967.

- (2) If modifications such as breach construction or implementation of a permanent vegetation or surface lining plan are needed, such plans shall be reviewed per standard procedures for consideration of a letter of approval to modify or breach.
- (3) If approved, such plans shall follow standard procedure for construction, including construction supervision by a North Carolina registered professional engineer, as-built submittal by a North Carolina registered professional engineer, and follow up final inspection by the Division.
- (4) Final approval shall be issued by the Division in the form of a letter decommissioning the facility, and the facility shall no longer be under jurisdiction of the Dam Safety Law of 1967. (2014-122, s. 7.1.)