

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management  
Rule No. 335-6-6-.08  
Rule Title: Application Format and Procedures for New Permits and for Permit Reissuance  
 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? NO

Are all facts of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

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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 Reference Service.

Signature of certifying officer Mary Elliott

Date April 20, 2015

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
WATER DIVISION

NOTICE OF INTENDED ACTION

**Agency Name:** Alabama Department of Environmental Management

**Rule No. & Title:** 335-6-6-.08 Application Format and Procedures for New Permits and for Permit Reissuance (Amend)

**Intended Action:** The Alabama Department of Environmental Management proposes to amend rule 335-6-6-.08.

**Substance of Proposed Action:**

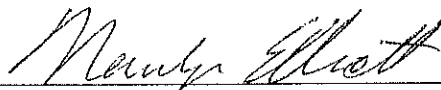
The Department proposes to update this rule for consistency with a federal rule. The Department also proposes to make administrative corrections and revisions in this rule.

**Time, Place, Manner of Presenting Views:**

Comments may be submitted in writing or orally at a public hearing to be held at 2:00 P.M., June 15, 2015, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

**Final Date for Comment and Completion of Notice:** June 15, 2015

**Contact Person at Agency:** Christy Monk, (334) 394-4364

  
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Lance R. LeFleur  
Director

**335-6-6-.08 Application Format and Procedures for New Permits and for Permit Reissuance.**

(1) Applications shall be made in duplicate, shall be made using forms designated by the Director, and shall consist of the following:

(a) Information required under 40 CFR Part 122 Subpart B (2000) and 40 CFR 125 (2005) where applicable to the particular discharges;

(b) Trade name and chemical composition of all biocides and corrosion inhibitors used;

(c) Type of business entity, whether corporation, general or limited partnership, sole proprietorship or other;

(d) If applicable, name of applicant's parent corporation or subsidiary corporations;

(e) If a corporation, location of incorporation;

(f) A listing of corporate officers and their names and addresses; and the name and address of the agent designated by the corporation for purposes of service. If a partnership, the names and addresses of the general partners and, if a proprietorship, the name and address of the proprietor;

(g) Permit numbers for applicant's previously issued NPDES permits and identification of any other state environmental permits presently held by the applicant or its parent corporation or subsidiary corporations within the state;

(h) Identification of administrative complaints, notices of violation, directives, or administrative orders, or litigation concerning water pollution, if any, against the applicant, its parent corporation or subsidiary corporations within the state;

(i) If the discharge is to be from a new processing facility or new waste treatment facility, the Department may require the submittal of a preliminary engineering report and/or preliminary plans and specifications prior to permitting or the Department may elect to require one or more of these documents prior to discharge or the Department may waive the requirement for one or all of these documents. This requirement applies whether or not an existing facility is present at the same location which may possess an NPDES permit, but does not apply to mining operations regulated pursuant to the Alabama Surface Mining Control and Reclamation Act of 1981; and

(j) A best management practices (BMP) plan if required by the Director prior to permitting. BMP plans shall be developed in accordance with good engineering practices and may be required to:

1. Be documented in narrative form and shall include any necessary plot plans, drawings or maps;

2. Examine each facility component or system with respect to its potential for causing a release of significant amounts of pollutants into waters due to equipment failure, improper operation, natural phenomena such as rain, freezing temperatures, etc.;

3. Include a prediction of the direction, rate of flow and total quantity of pollutants which could be discharged from the facility as a result of equipment failure, natural phenomena or other circumstances;

4. Establish best management practices addressing each system capable of causing a release of significant amounts of pollutants into waters of the state;

5. Reflect applicable requirements for Spill Prevention Control and Countermeasure (SPCC) plans under Section 311 of the FWPCA and 40 CFR Part 112 (1994), and may incorporate such plans into the BMP plan by reference;

6. Assure the proper management of solid and hazardous waste;

7. Address the following points for materials storage areas, process and material handling areas, loading and unloading areas, plant site runoff, and sludge and waste disposal areas: statement of policy, employee training, inspections, preventative maintenance, and housekeeping; and

8. Provide impervious liners, dikes, or other structures sufficient to prevent the discharge of a pollutant to groundwater.

(k) The Department may require that an application for an NPDES permit provide additional reports, specifications, plans, quantitative data, bioassays, stream models, or other information reasonably required to assess the discharges of the facility and the potential water quality impact of the discharges and to determine whether to issue an NPDES permit; and

1. Applicable fees as required by ~~rule chapter~~ 335-1-6.

2. Signatory requirements for permit applications shall comply with the requirements of rule 335-6-6-.09.

3. Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this ~~section~~ chapter for a period of at least three years from the date the application is signed or if the applicant is involved in litigation with the Department until such time that the litigation is resolved.

4. Any application which is incomplete or otherwise deficient shall not be processed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency and shall not constitute compliance with rule 335-6-6-.12 or rule 335-6-6-.06, except that information requested under the authority of ~~rule subparagraph~~ 335-6-6-.08(1)(k) above

after submittal of the initial application shall not render the initial application incomplete unless such information was requested at least 180 days prior to the expiration of an existing permit.

5. Permit applications shall be submitted by the operator of the wastewater treatment and disposal system or, in instances where wastewater is discharged without treatment, by the operator of the process or facility generating the wastewater. Permit applications for storm water discharge permits from municipalities and other governmental agencies shall be submitted by the person owning or having control over the storm sewer system.

6. Permit applications submitted for publicly owned treatment works, that have design effluent flows equal to or greater than one million gallons per day or that receive a discharge from a significant industrial discharger, shall include the results of a valid whole effluent biological toxicity test, performed within the twelve month period immediately preceding the application submittal date.

7. The permit writer shall determine if a permit application is complete as defined by this rule and if all the information necessary for determining permit conditions has been submitted. If additional information is required, the permit writer shall request the information from the applicant in writing and failure to respond by the applicant shall be grounds for denial of the permit application.

8. Applications for new sources, new dischargers, permit reissuance and for permit modifications [except as in subparagraph 335-6-6-.08(k)9.] shall be submitted at least 180 days prior to the applicant's desired date for commencement of the new discharge and for permit reissuance at least 180 days prior to expiration of the current permit.

9. Applications for individual NPDES permits for storm water discharge shall contain the information required by 40 CFR 122 (2000) and shall be submitted in accordance with the requirements of 40 CFR 122 (2000).

(l) Except as specified in subparagraph 335-6-6-.08(1)(l)2. or 3., quantitative data provided in a permit application shall be collected in accordance with sufficiently sensitive analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N.

1. For the purposes of this requirement, a method approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N is "sufficiently sensitive" when:

(i) The method minimum level (ML) is at or below the level of the applicable water quality criterion for the measured pollutant or pollutant parameter; or

(ii) The method minimum ML is above the applicable water quality criterion, but the amount of the pollutant or pollutant parameter in a facility's

discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or

(iii) The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N for the measured pollutant or pollutant parameter.

2. When there is no analytical method that has been approved under 40 CFR Part 136, required under 40 CFR chapter I, subchapter N or O, and is not otherwise required by the Director, the applicant may use any suitable method but shall provide a description of the method. When selecting a suitable method, other factors such as a method's precision, accuracy, or resolution may be considered when assessing the performance of the method.

3. Consistent with 40 CFR Part 136, applicants have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where an applicant can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of "sufficiently sensitive", the analytical results are not consistent with the QA/QC specifications for that method, then the Director may determine that the method is not performing adequately, and the applicant shall select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with subparagraph 335-6-6-.08(1)(l)1. Where no other EPA-approved methods exist, the applicant should select a method consistent with subparagraph 335-6-6-.08(1)(l)2.

**Author:** John Poole, Truman Green, Daphne Lutz.

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

**History:** October 19, 1979. **Amended:** January 24, 1989; April 29, 1991; July 12, 1995, August 1, 2002, January 23, 2003; September 21, 2005; XXXX XX, 2015.