

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management  
Rule No. 335-6-6-.05  
Rule Title: Duration of Permits

         New        X   Amend               Repeal               Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?          NO

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 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 Ellett        

Date December 19, 2011

Date Filed 

APA-2  
11/96

**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
WATER DIVISION**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

**RULE NO. & TITLE:** 335-6-6-.02 Definitions  
335-6-6-.05 Duration of Permits

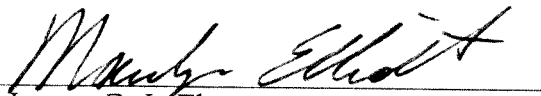
**INTENDED ACTION:** The Alabama Department of Environmental Management proposes to revise division 335-6, Water Quality Program.

**SUBSTANCE OR PROPOSED ACTION:** Revisions to rules 335-6-6-.02 and 335-6-6-.05 are being proposed to make clarifications to the duration of a National Pollutant Discharge Elimination System (NPDES) permit where construction of the permit facility has not begun within eighteen (18) months of the permit's issuance.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** Comments may be submitted in writing or orally at a public hearing to be held February 3, 2012, at 10:00 a.m. at the offices of the Alabama Department of Environmental Management, 1400 Coliseum Blvd, Montgomery, AL 36109, or by mail to P.O. Box 301463, Montgomery, AL 36130-1463.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:** February 3, 2012 at 5:00 p.m.

**CONTACT PERSON AT AGENCY:** Vernon H. Crockett, Chief  
Stormwater Management Branch – Water Division  
[334/271-7974]

  
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Lance R. LeFleur  
Director

### **335-6-6-.05 Duration of Permits.**

(1) An NPDES permit issued pursuant to the AWPCA and this rule shall have a fixed term not to exceed five years unless a longer term is allowed by 40 CFR Part 122 and is approved by the Director. A person who wishes to continue to discharge beyond the term of such permit shall apply for reissuance of an NPDES permit pursuant to rule 335-6-6-.08.

(2) Except as provided by rule 335-6-6-.05(4), An NPDES permit issued for a "new discharger" or "new source" shall expire eighteen months after issuance if "construction" has not begun during that eighteen-month period. This period shall be tolled by any administrative request for hearing or an administrative or judicial stay.

(3) That portion of an NPDES permit authorizing the discharge of increased quantities of pollutants to accommodate the modification of an existing facility shall expire eighteen months after issuance if "construction" of the modification has not begun within eighteen months after reissuance of the NPDES permit or modification of the NPDES permit to allow the discharge of increased quantities of pollutants. This period shall be tolled by any administrative request for hearing or an administrative or judicial stay.

(4) An NPDES permit issued for a "new discharger" or "new source" associated with a "surface coal mine" shall expire eighteen months after issuance if "construction" has not begun during that eighteen-month period, unless the Permittee has not started "construction" pending issuance of a permit by the "ASMC" and at the time the NPDES permit was issued had complied with the application requirements of the "ASMC" Administrative Code Title 880. In such cases, the NPDES permit shall expire 18 months after issuance of the "ASMC" permit if "construction" has not begun during that eighteen-month period. This period shall be tolled by any administrative request for hearing or an administrative or judicial stay.

**Author:** John Poole, Richard Hulcher, Glenda Dean, Chip Crockett.

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

**History:** October 19, 1979. **Amended:** January 24, 1989; July 12, 1995, August 1, 2002; XXXXXX.