

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-6-8-08
Rule Title: Public Notice Requirements

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.

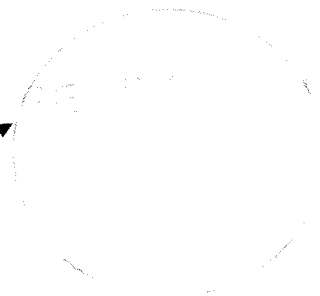
Certification of Authorized Official

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 *Mandy Elias*

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:

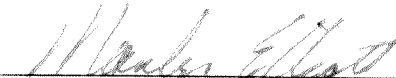
Revisions to the Division 6 Code are being proposed to include requirements for Class VI injection wells, for geologic sequestration of carbon dioxide. The proposed additions and amendments are consistent with the federal regulations for Class VI wells published in the Federal Register on December 10, 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-.08 Public Notice Requirements.

(1) Public notice is required when the Department takes the following actions:

(a) A permit application has been received and a draft permit, or draft modification to a permit has been prepared and a tentative determination made to issue or reissue the permit or modification;

(b) A public hearing has been scheduled.

(c) A general permit is proposed for issuance for a stated category of Class V wells.

(d) Proposes termination of a permit for cause.

(2) Public notice is not required when the Department makes a minor modification to a permit. Minor permit modification may only:

(a) Correct administrative and typographical errors;

(b) Increase the frequency of monitoring or reporting by the permittee;

(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

(d) Allow for a change in name or operational control of the facility where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new owner or operator has been submitted to the Department;

(e) Delete an injection well when the injection to that well is terminated, the well has been properly abandoned, and the injection well does not result in injection to other injection wells except in accordance with permit limits. This provision does not apply to a permitted Class VI well.

(f) Amend a Class VI injection well testing and monitoring plan, plugging plan, post-injection site care and site closure plan, or emergency and remedial response plan where the modifications merely clarify or correct the plan, as determined by the Department and in accordance with this rule.

(3) The duration of a public notice shall be as follows:

(a) At least 30 days shall be allowed by the Department to receive public comment after a public notice is issued for a general permit, draft permit, or draft modification to a permit;

(b) At least 30 days shall be allowed by the Department to receive public comment prior to the scheduled date of a public hearing. The public notice of the hearing may be given at the same time as public notice of the general or draft permit. The two notices may be combined.

(4) Public notice shall be provided using the following methods:

(a) A copy of public notices shall be mailed to the persons listed below. Any person entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits:

1. The person applying for a permit.

2. Any other agency which the Department knows has issued or is required to issue a RCRA, UIC, PSD, NPDES or 404 permit for the same facility or activity.

3. Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, public health, and other appropriate government authorities including any affected states.

4. Any state agency responsible for plan development under the FWPCA Section 208(b)(2), 208(b)(4) or 303(e) and the U.S Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

5. Persons on a mailing list developed by:

(i) Including those who request in writing to be on the list;

(ii) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state funded newsletters, environmental bulletins, or state law journals (the Department may update the mailing list from time to time by requesting written indication of continued interest from those listed and may delete from the list the name of any person who fails to respond to such a request);

6. To any unit of local government having jurisdiction over the area where the facility is or is proposed to be located.

7. To each state agency having any authority under state law with respect to the construction or operation of such facility.

(b) Public notice shall be published in a daily or weekly newspaper of general circulation within the area affected by the facility or activity.

(c) For a Class VI permit, at the time that the public notice is issued for the draft permit, a notice shall be mailed or e-mailed to the State Oil and Gas Board and any state agency regulating mineral exploration and recovery, the Chief of the Public Water Supply regulatory program in Alabama, and all agencies that oversee injection wells in the State.

(5) All public notices shall, as a minimum, contain the following information:

(a) Name and address of the office processing the permit action for which notice is being given;

(b) Name and address of the person applying for a permit or holding a permit and, if different, of the facility or activity regulated by the permit (when an address is not applicable to the regulated entity, a general location shall be given);

(c) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the general or draft permit, statement of basis or fact sheet, and the application;

(d) A general description of the public comment procedures required by this rule and the time and place of any hearing that will be held, (if applicable) including a statement of procedures to request a hearing, unless a hearing has already been scheduled, and other procedures by which the public may participate in the final permit decision;

(e) A general description of the location of each existing or proposed injection well or well field; and

(f) A general description of the activity or business conducted at the facility generating the fluids and/or pollutants to be injected.

(6) The public notice of a hearing shall contain, in addition to public notice information requirements in paragraph (4) of this rule, the following information:

(a) A reference to the date of previous public notices relating to the permit;

(b) Date, time, and place of the hearing; and

(c) A description of the nature and purpose of the hearing, including a citation of the applicable rules and procedures.

(7) The Department shall accept public comments and requests for public hearings as follows:

(a) During the public comment period, any interested person may submit written comments on the permit application, and general or draft permit, and may request a public hearing if no hearing has already been scheduled.

(b) A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing.

(8) The Department shall determine when a public hearing is appropriate as follows:

(a) Whenever it is found, on the basis of hearing requests, that there exists a significant degree of public interest in a permit application, or general or draft permit.

(b) At the Department's discretion, whenever such a hearing might clarify one or more issues involved in the permit decision.

(9) The Department shall hold a public hearing in the following manner:

(a) At a location that shall be convenient to the majority of those providing comments in response to the public notice.

(b) To allow any person to present oral or written statements and to present data concerning the permit application, and general or draft permit to the Department. Reasonable limits may be set upon the time allowed for oral statement. As a result, the submission of statements in writing may be necessary.

(c) Automatically extend the public comment period to the close of any public hearing. The hearing officer may also extend the comment period by so stating at the hearing.

(d) The Department shall make a record of the public hearing available to the public in the form of a tape recording or written transcript.

(10) The Department shall prepare and make available to the public upon request, a response to comments received during the public comment period or public hearing, as follows:

(a) After consideration of any comments, the Department may revise and issue a draft or general permit, or not issue a draft or general permit.

(b) The Department may provide a written reply to significant comments (like comments may be grouped and one response written) concerning the general or draft permit. A significant comment is a comment that offers information or suggestions of a technical, environmental, legal, or regulatory nature that are applicable to the general or draft permit.

(c) After consulting with, or receiving written comments from Federal or State agencies with jurisdiction over public health, the Department may add and/or modify permit conditions that these Federal or State agencies have advised the Department are necessary to avoid substantial impairment of a public water supply.

Author: Curt Johnson, Thad Pittman, Sonja Massey.

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

History: June 19, 1982; **Repealed:** April 11, 2002. **Readopted:** May 16, 2002.
Amended: July 28, 2009; XXXXXXX, 2011.