TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Rule No. 335 Department or Agency Environmental Management	
Rule Title: Enforcement under NPDES	
Now.	lopt 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

Does the proposed rule have an economic impact?	NO
If the proposed rule has an economic impact, the proposed rule is requaccompanied by a fiscal note prepared in accordance with subsection 41-22-23, Code of Alabama 1975.	uired to be (f) of Section
**************************************	*******
I certify that the attached proposed rule has been proposed in full comrequirements of Chapter 22, Title 41, Code of Alabama 1975, and that applicable filing requirements of the Administrative Procedure Division Legislative Reference Service.	t it conforms to all
Signature of certifying officer Muy Elioth	
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-.18 Enforcement under NPDES (Amend)

Intended Action:

The Alabama Department of Environmental Management proposes

to amend rule 335-6-6-.18.

Substance of Proposed Action:

The Department also proposes to make administrative corrections 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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Director

335-6-6-.18 Enforcement Under NPDES.

- (1) Any NPDES permit issued or reissued by the Department is a permit for the purpose of the AWPCA and the FWPCA as such any terms, conditions, or limitations of the permit are enforceable under state and federal law.
- (2) Any person required to have an NPDES permit pursuant to this rule chapter and who discharges pollutants without said permit, who violates the conditions of said permit, who discharges pollutants in a manner not authorized by the permit, or who violates this rule chapter or applicable orders of the Department or any applicable rule or standard under this division, is subject to any one or combination of the following enforcement actions under the AWPCA.
- (a) An administrative order requiring abatement compliance, mitigation, cessation of discharge, clean up, and/or penalties;
 - (b) An action for damages;
 - (c) An action for injunctive relief; or
 - (d) An action for penalties.
- (3) Any order issued by the Department pursuant to the AWPCA requiring compliance with the AWPCA, its implementing rules, or an NPDES Permit shall specify a reasonable time within which noncompliance must cease. In appropriate cases a reasonable time may be immediately. Reasonableness shall be determined based upon the severity of the violation and the complexity and availability of the measures necessary to correct the violation.
- (4) If the permittee is not in compliance with the conditions of an expiring or expired permit the Director may choose to do any or all of the following provided the permittee has made a timely application for reissuance of the permit:
- (a) Initiate enforcement action based upon the permit which has been continued;
- (b) Issue a notice of intent to deny the permit reissuance. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
 - (c) Reissue the new permit with appropriate conditions; or
 - (d) Take other actions authorized by these rules and the AWPCA.

Author: John Poole.

Statutory Authority: Code of Alabama 1975, § 22-22-9, § 22-22-14,

§ 22-22A-5.

History: October 19, 1979. Amended: January 24, 1989; XXXX XX, 2015.