

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
 Rule No. 335-6-8-.05
 Rule Title: Prohibited Actions
 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

 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 *Nancy 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: 335-6-8-.05 Prohibited Actions (Amend)

Intended Action: The Alabama Department of Environmental Management proposes to amend rule 335-6-8-.05.

Substance of Proposed Action:

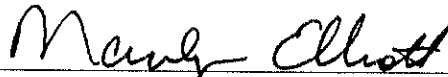
The Department proposes to amend rule 335-6-8-.05 "Prohibited Actions" to add references to 40 CFR Part 142 and to allow for the permitting of Aquifer Storage and Recovery (ASR) wells.

Time, Place, Manner of Presenting Views:

Comments may be submitted in writing or orally at a public hearing to be held at 10:00 A.M., June 11, 2015, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

Final Date for Comment and Completion of Notice: June 11, 2015

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



Lance R. LeFleur
Director

335-6-8-.05 Prohibited Actions.

- (1) The following actions are prohibited by this chapter:
 - (a) The discharge of fluids and/or pollutants to ground water and/or to soils, which may result in a discharge of fluids and/or pollutants to ground water which is not authorized by and in compliance with a permit issued under the provisions of this chapter, the Alabama Hazardous Waste Management and Minimization Act or ADEM Administrative Code division 335-14 (Hazardous Waste Program) or other chapter of the ADEM Administrative Code.
 - (b) The injection into any injection well or the construction of any injection well or facility to be used for the injection into any injection well unless such injection and construction is authorized by permit in accordance with this chapter.
 - (c) Violation of any condition or requirement of any permit issued pursuant to this chapter.
 - (d) Constructing, operating, maintaining, converting, plugging, abandoning, or conducting any other injection activity in a manner that allows the movement of fluids and/or pollutants into a USDW, if the presence of fluids and/or pollutants may cause an exceedance of any primary or secondary drinking water regulation under 40 CFR Part 141, 142 and 143; or may result in a water of the state failing to meet applicable water quality criteria in accordance with ADEM Administrative Code rule 335-6-10; or may otherwise adversely affect the health of persons or other legitimate beneficial uses. The owner or operator shall have the burden of showing that the requirements of this paragraph are met.
 - (e) Well injection between the outermost casing and the borehole.
 - (f) Construction or operation of a Class I well.
 - (g) Operation of a Class III well lacking mechanical integrity.
 - (h) Operation of a Class VI well lacking mechanical integrity.
 - (i) Construction or operation of a Class IV well.
 - (j) Construction or operation of a cesspool.
 - (k) Construction or operation of a motor vehicle waste disposal well.
 - (l) Construction or operation of a Class V vertical well for the injection of sanitary waste, treated or untreated, unless the injection is through an Aquifer Storage and Recovery (ASR) well permitted under this chapter.

(2) If the Department becomes aware that an injection well may cause a violation of primary or secondary drinking water regulations under 40 CFR Parts 141, 142, and 143 in a USDW, has not been operated in accordance with the requirements of this chapter, or otherwise poses a threat to the environment or the health of persons, the Department may order the owner or operator to take such actions (including where required closure of the injection well) as may be necessary to prevent or abate the violation of a primary or secondary drinking water regulation under 40 CFR Part 141, 142, and 143 in a USDW. This may include the performance of ground water quality investigations and the implementation of corrective actions. Such investigations and/or corrective actions shall be conducted in a manner suitable to the Department.

(3) The Department may take emergency action upon receipt of information that a fluid and/or pollutant which is present in or likely to enter a USDW may present an imminent and substantial endangerment to the health of persons or the environment.

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; September 26, 2011; XXXX XX, 2015.