

APA-1
11/96

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-7-2-.21
Rule Title: Public Notification

 New X 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 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.

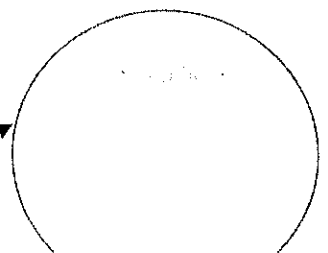
Certification of Authorized Official

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 *Marilyn Elton*

Date July 21, 2014

Date Filed



APA-2
11/96

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
WATER DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Environmental Management

RULE NO. & TITLE: 335-7-2-.07 Microbiological Standards and Monitoring Requirements (Amend)
335-7-2-.12 Stage 2 Disinfection Byproducts (Amend)
335-7-2-.21 Public Notification (Amend)
334-7-2-.22 Assessments (New)


INTENDED ACTION: Revise Division 7 of the ADEM Administrative Code.

SUBSTANCE OF PROPOSED ACTION: Revisions to rules 335-7-2-.07; 335-7-2-.12 and 335-7-2-.21 are being proposed to make technical clarifications and make administrative corrections. Rule 335-7-2-.22 is being proposed to add applicable federal requirements on assessments.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Comments may be submitted in writing or orally at a public hearing to be held 2:00 p.m., September 10, 2014, in the ADEM Hearing Room, 1400 Coliseum Blvd., Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Wednesday, September 10, 2014 at 5:00 p.m.

CONTACT PERSON AT AGENCY: Christy V. Monk, Chief
Office of Water Services at (334) 394-4364



Lance R. LeFleur
Director

335-7-2-.21 Public Notification.

(1) Any public water system which fails to comply with an applicable MCL or MRDL established in these regulations, is granted an exemption from an applicable MCL, fails to comply with an applicable treatment process, fails to comply with the requirements of any schedule prescribed pursuant to an exemption, fails to collect any 3 months of *Cryptosporidium* monitoring as required in rule 335-7-2-.17, fails to determine the system's *Cryptosporidium* bin classification, fails to take corrective action or fails to maintain at least 4-log treatment of viruses before or at the first customer as required in 335-7-5-.22(6)(a) shall notify persons served by the systems as follows:

(a) Community systems shall provide notification within 30 days by other methods to reach persons not being reached by direct notification. These methods must include publication in a daily newspaper of general circulation in the area served by the system. If the area served by a public water system is not served by a daily newspaper of general circulation, notice shall instead be given in a weekly newspaper of general circulation serving the area. Public notification shall also be made by distribution of multiple copies to customers that provide drinking water to others, by the Internet, by posting for seven days or by delivery to community organizations if directed by the Department.

(b) Community water systems shall provide notification by direct mail, inclusion with a water bill or by hand delivery, within 30 days after the violation or failure.

(c) Following the initial notice given under this rule, the community water system must give notice at least once every three months ~~by mail or hand delivery~~ for as long as the violation or failure exists, unless the Department determines that appropriate circumstances warrant a different repeat notice frequency. The repeat notice must be given a minimum of at least once per year. No reduction in repeat notice frequency will be given for microbial contaminant maximum contaminant level violations.

(d) NTNC water systems must post notice in places of public view or provide hand delivery to those using the system within 30 days of becoming aware of the violation. The notice shall remain posted for a minimum of seven days or as long as the failure continues, whichever is greater. A copy of the notice must also be furnished to a communications media that is most likely to serve the local area.

(e) Non-community water systems must post notice in places of public view instead of hand delivery within 30 days of becoming aware of the violation. The notice shall remain posted for a minimum of seven days or as long as the failure continues, whichever is greater. A copy of the notice must also be furnished to a communications media that is most likely to serve the local area.

(f) When violations of the MCL of contaminants that may pose an acute risk to human health occur, public notification must be provided by the

system within 24 hours of the discovery of the violation by either radio and television, posting of the notice in conspicuous locations throughout the area served by the water system or by hand delivery of the notice to persons served by the water system. The water system must also consult with the Department within 24 hours to determine additional public notification requirements. The following violations are considered to be acute risk to human health:

1. Violation of the ~~microbiological~~-*E. coli* maximum contaminant level as specified in section 335-7-2-.07(1), ~~when fecal coliform or *E. coli* are present or when the water system fails to test for fecal coliforms or *E. coli* when any repeat sample tests positive for coliform.~~

2. Violation of the MCL for nitrates, nitrites or total nitrates and nitrites.

3. Violation of the MCL for organic or inorganic chemicals at a level determined by the Department to be an acute risk to human health.

4. An acute violation of the MRDL for chlorine dioxide.

5. Other violations or situations with significant potential to have serious adverse effects on human health as a result of short term exposure, as determined by the Department either in its regulations or on a case by case basis.

(g) Other situations which require public notification within 24 hours are:

1. Exceedance of the maximum allowable turbidity limit if the Department is not notified within 24 hours of the violation or when the Department determines that an acute violation has occurred.

2. Occurrence of a waterborne disease outbreak or other emergency such as a natural disaster that disrupts water treatment, a chemical spill or unexpected high levels of possible pathogens in the source water.

3. Detection of *E. coli*, enterococci, or coliphage in source water samples as specified under 335-7-5-.22(5)(a) and 335-7-5-.22(5)(b).

(2) A community water system must give a copy of the most recent public notice for any outstanding violation of any maximum contaminant level, any maximum residual disinfectant level, any treatment technique requirement or variance or exemption schedule to all new billing units or new hookups prior to or at the time service begins.

(3) Notices given shall be written in a manner reasonably designed to inform fully the users of the system. The notice shall be conspicuous and shall not use unduly technical language, unduly small print or other methods which would frustrate the purpose of the notice. The notice shall disclose all material facts regarding the subject including the contaminant of concern and if

applicable the contaminant level, when the violation or situation occurred, any potential adverse health effects, the population at risk, reasonably available methods of mitigating known or potential contamination in drinking water, steps being taken by the water system to mitigate problems in drinking water, and the necessity for seeking alternative water supplies, if any. Each notice shall contain the name, business address, and telephone number of the water system's owner, operator or designee as an additional source of information regarding the notice. The notice must also include what the water system is doing to correct the violation or situation and when the system expects to return to compliance or resolve the situation. When appropriate, a clear statement that a primary drinking water standard has been violated and any preventive measures that should be taken by the public. Notices for all MCL, treatment technique, MRDL, and monitoring violations shall contain the specific language as written in Appendix C. Notices must also include the standard distribution language as written in Appendix C. For public water systems serving a large proportion of non-English speaking consumers, the public notice must contain information in the appropriate language regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language.

(4) Any water system which fails to comply with an applicable testing procedure, fails to perform required monitoring, fails to maintain the required disinfectant residual, fails to notify of the availability of unregulated monitoring results, fails to notify of the exceedance of the secondary fluoride standard, fails to reporting and recordkeeping keep records of violations for microbial contaminants or is granted an exemption shall notify persons served by the system as follows:

(a) Community water systems shall provide notification within one year of being notified of the violation by direct mail, inclusion with a water bill or by hand delivery. A copy of the notice must be furnished to a communications media that is most likely to serve the local area. Notification by mail or hand delivery must be made every three months following the initial newspaper notification for as long as the violation continues or exemption continues. Public notification shall also be made by distribution of multiple copies to customers that provide drinking water to others, by the internet, by posting for seven days or by delivery to community organizations if directed by the Department.

(b) In lieu of an individual notice, the public water system may use an annual report of monitoring violations or the CCR, as long as the method of delivery and content of the violation notice meets the requirements of the regulations and the CCR or annual report is provided to persons served within twelve months after the system learns of the violation.

(c) NTNC water systems must post a notice in places of public view instead of hand delivery. The notice shall remain posted for a minimum of seven days or as long as the failure continues, whichever is greater. A copy of the notice must also be furnished to a communications media that is most

likely to serve the local area. In lieu of an individual notice, the public water system may use an annual report of monitoring violations, as long as the method of delivery and content of the violation notice meets the requirements of the regulations.

(d) Non-community water systems must post a notice in places of public view instead of hand delivery. The notice shall remain posted for a minimum of seven days or as long as the failure continues, whichever is greater. A copy of the notice must also be furnished to a communications media that is most likely to serve the local area. In lieu of an individual notice, the public water system may use an annual report of monitoring violations, as long as the method of delivery and content of the violation notice meets the requirements of the regulations.

(5) Each community and NTNC water system shall issue notice when required by the Department to persons served by the system that may be affected by lead contamination of their drinking water. Such notification is required even if there is no violation of the primary drinking water standards for lead. The notice for lead shall include the specific language as written in Appendix C.

(6) Each water system required to perform monitoring for unregulated contaminants shall notify persons served by the water system of the availability of said monitoring results no later than twelve months after the monitoring results are known. Community water systems shall provide notification by direct mail, inclusion with a water bill or by hand delivery. Public notification shall also be made by publication in a local newspaper, distribution of multiple copies to customers that provide drinking water to others, by the internet, by posting for seven days or by delivery to community organizations if directed by the Department. NTNC water systems must post a notice in places of public view instead of hand delivery. The notice shall remain posted for a minimum of seven days. The notice shall identify the system's owner, operator or designee and telephone number to contact for information on the monitoring results.

(7) Community water systems that exceed the fluoride secondary maximum contaminant level (SMCL) of 2 mg/l (determined by the last single sample), but do not exceed the MCL of 4 mg/l for fluoride, must provide the public notice in Appendix C to persons served by the system. The public notice must be provided as soon as practical but no later than 12 months from the day the water system learns of the exceedance. A copy of the notice must also be sent to all new billing units and new customers at the time service begins and to the State public health officer. The public water system must repeat the notice at least annually for as long as the SMCL is exceeded. If the public notice is posted, the notice must remain in place for as long as the SMCL is exceeded, but in no case less than seven days even if the exceedance is eliminated. Community water systems shall provide notification by direct mail, inclusion with a water bill or by hand delivery. Public notification shall also be made by publication in a local newspaper, distribution of multiple copies to customers that provide drinking water to others, by the internet, by

posting for seven days or by delivery to community organizations if directed by the Department.

(8) Public water systems that provide water to trailer parks, apartments, nursing homes, schools, businesses and other similar facilities must include in their notice the following language: Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

(9) Public water systems that sell or otherwise provide drinking water to other public water systems are required to give public notice to the owner or operator of the consecutive system. The consecutive system shall provide public notice to the customers that it serves in accordance with this section.

(10) If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the Department may allow the system to limit distribution of the public notice to only customers served by that portion of the system which is out of compliance. Written permission is required from the Department before limiting distribution of the notice.

(11) For continuing violations, the Department may allow the water system to notify their customers once a year.

Author: Joe Alan Power, Thomas S. DeLoach, Edgar K. Hughes, Dennis D. Harrison.

Statutory Authority: Code of Alabama 1975, §§ 22-23-33, 22-23-49, 22-22A-5, 22-22A-6.

History: May 23, 1977; Repealed and readopted: January 4, 1989; October 31, 1990.

Amended: September 19, 1995 (ER); November 28, 1995; December 8, 1998; effective January 25, 1999; March 12, 2002; January 28, 2004; December 12, 2005; January 22, 2008; May 26, 2009; XXXXXX, 2014.