

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
Rule No. 335-7-2-.22
Rule Title: Assessments

X 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 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.

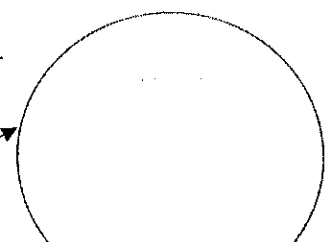
Certification of Authorized Official

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 Elliott*

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)

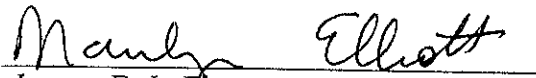
INTENDED ACTION: Revise Division 7 of the ADEM Administrative Code.

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-.22 Assessments

(1) Systems must conduct assessments after exceeding treatment technique triggers listed below:

(a) Level 1 treatment technique triggers.

1. For systems collecting 40 or more samples per month, the system exceeds 5.0% total coliform-positive samples for the month.

2. For systems collecting fewer than 40 samples per month, the system has two or more total coliform-positive samples in the same month.

3. The system fails to collect every required repeat sample after any total coliform-positive sample.

(b) Level 2 treatment technique triggers.

1. An *E. coli* MCL violation.

2. A second Level 1 trigger within a rolling 12-month period, unless the Department has determined a likely reason for the total coliform positive samples that caused the first Level 1 treatment technique trigger and has established that the system has corrected the problem.

(2) Requirements for the assessments include the following:

(a) Systems must ensure that Level 1 and 2 assessments are conducted in order to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. Level 2 assessments must be conducted by parties approved by the Department.

(b) When conducting assessments, the systems must ensure that the minimum elements are evaluated including review and identification of inadequacies in sample sites; sampling protocol; sample processing; non typical events that could affect distribution water quality or indicate that distribution water quality was impaired; changes in distribution system maintenance and operation that could affect distribution water quality (including water storage); source and treatment considerations that bear on distribution water quality, where appropriate (e.g., small ground water systems); and existing water quality monitoring data. The system must conduct the assessment consistent with any Department directives that address specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

(c) The system must complete a Level 1 or 2 assessment as soon as practical after any trigger is exceeded. In the completed assessment form, the system must describe sanitary defects detected, corrective actions completed,

and a proposed timetable for any corrective actions not already completed. The assessment form may also note that no sanitary defects were identified. The system must submit the completed Level 1 assessment form to the Department within 30 days after the system learns that it has exceeded a trigger.

(d) After the Department reviews the completed Level 1 or 2 assessment and determines that the assessment is not sufficient, revisions may be required to the assessment form. The system must submit a revised assessment form to the Department on an agreed-upon schedule not to exceed 30 days from the date of notification.

(e) A system must ensure that a Level 2 assessment consistent with Department requirements is conducted if the system exceeds one of the treatment technique triggers. The system must comply with any expedited or additional actions required by the Department in the case of an *E. coli* MCL violation.

(f) The system may conduct Level 2 assessments if the system has staff or management with the certifications or qualifications specified by the Department unless otherwise directed by the Department.

(3) Systems must correct sanitary defects found in either a Level 1 or 2 assessment. For corrective actions not completed by the time of submission of the assessment form, the system must complete the corrective action(s) in compliance with a timetable approved by the Department. The system must notify the Department when each scheduled corrective action is completed.

(4) A treatment technique violation occurs when a system exceeds a treatment technique trigger and then fails to conduct the required assessment or complete corrective actions within the timeframe specified in the assessment or by the Department.

(5) Failure to submit completed assessment form after a system properly conducts an assessment in a timely manner is a reporting violation.

Author: Thomas S. DeLoach.

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

History: XXXXXX, 2014.