

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management

Rule No. 335-6-1-.04

Rule Title: Electronic Reporting 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? 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? YES

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.

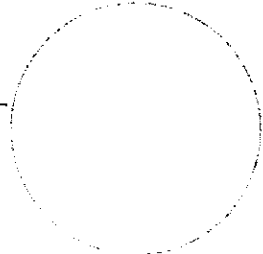
Certification of Authorized Official

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 September 21, 2016



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
WATER DIVISION

NOTICE OF INTENDED ACTION

Agency Name: Alabama Department of Environmental Management
Rule No. & Title: 335-6-1-.04 Electronic Reporting Requirements (New)
Intended Action: The Alabama Department of Environmental Management proposes to add rule 335-6-1-.04

Substance of Proposed Action:

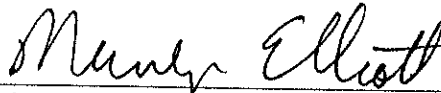
The Department proposes to add this rule.

Time, Place, Manner of Presenting Views:

Comments may be submitted in writing or orally at a public hearing to be held at 10:00 AM, November 10, 2016, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

Final Date for Comment and Completion of Notice: November 10, 2016

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



Lance R. LeFleur
Director

335-6-1-.04 Electronic Reporting Requirements.

(1) Purpose and Applicability.

(a) This rule, in conjunction with the reporting requirements specified in chapters 335-6-5 and 335-6-6, specifies the requirements for the electronic reporting of the information specified in paragraph (2) of this rule.

(b) This rule applies to any person who:

1. Is required to apply for or has obtained a State Indirect Discharge (SID permit under chapter 335-6-5;

2. Is required to apply for or has obtained an individual NPDES permit or coverage under a general NPDES permit under chapter 335-6-6; or

3. Submits a stormwater no exposure certification (NEC) or has an approved stormwater no exposure certification (NEC) in lieu of an individual or general permit under chapter 335-6-6.

(2) Reports, Notices, and Certifications Subject to Electronic Reporting.

(a) Beginning on the applicable compliance date specified in paragraph (3) of this rule, regulated persons shall electronically submit the following reports, as applicable, with the minimum set of data required for those reports as specified in Appendix A to 40 CFR part 127 (2016):

1. Discharge Monitoring Reports [subparagraphs 335-6-5-.15(12)(c)1. and 335-6-6-.12(l)5.(i)];

2. Municipal Separate Storm Sewer System (MS4) Program Reports [rule 335-6-6-.11, 40 CFR §§122.34(g)(3) and 122.42(c)];

3. Sewer Overflow and Bypass Incident Event Reports [subparagraphs 335-6-6-.12(l)6.(ii), 335-6-6-.12(m)2.(i), and 335-6-6-.12(m)2.(ii)]; and

4. Clean Water Act (CWA) Section 316(b) Annual Reports [paragraph 335-6-6-.10(g) and 40 CFR part 125, subparts I, J, and N].

(b) Beginning on the applicable compliance date specified in paragraph (3) of this rule, persons seeking coverage under NPDES general permits or termination of coverage under NPDES general permits, and persons submitting stormwater certifications for exclusion from NPDES permit requirements shall electronically submit the following notices and certifications with the minimum set of data required for those notices and certifications as specified in Appendix A to 40 CFR part 127 (2016):

1. Notice of intent (NOI) to discharge by persons seeking coverage under a general NPDES permit (rather than an individual NPDES permit), as described in paragraph 335-6-6-.23(15);

2. Notice of termination (NOT), as described in subparagraph 335-6-6-.23(7)(d); and

3. No exposure certification (NEC), as described in rule 335-6-6-.03 and 40 CFR §122.26(g)(1)(iii).

(3) Compliance Dates. Persons subject to this rule, with the exception of those covered by waivers under paragraph (6) of this rule, shall electronically submit the following reports, notices, and certifications beginning on the dates specified in Table 1 of this paragraph:

Table 1. Compliance Date for Electronic Submissions

<u>Information</u>	<u>Start Date of Electronic Submissions</u>
<u>Discharge Monitoring Reports [subparagraphs 335-6-5-.15(12)(e)1, and 335-6-6-.12(l)5.(i)]</u>	<u>December 21, 2016</u>
<u>Municipal Separate Storm Sewer System (MS4) Program Reports [rule 335-6-6-.11, 40 CFR §§122.34(g)(3) and 122.42(c)]</u>	<u>December 21, 2020</u>
<u>Sewer Overflow and Bypass Incident Event Reports [335-6-6-.12(l)6.(ii), 335-6-6-.12(m)2.(i), and 335-6-6-.12(m)2.(ii)]</u>	<u>December 21, 2020</u>
<u>CWA Section 316(b) Annual Reports [paragraph 335-6-6-.10(g) and 40 CFR part 125, subparts I, J, and N]</u>	<u>December 21, 2020</u>
<u>Notice of intent (NOI) to discharge by persons seeking coverage under a general NPDES permit (rather than an individual NPDES permit), as described in paragraph 335-6-6-.23(15)</u>	<u>December 21, 2020</u>
<u>Notice of termination (NOT), as described in subparagraph 335-6-6-.23(7)(d)</u>	<u>December 21, 2020</u>
<u>No exposure certification (NEC), as described in rule 335-6-6-.03 and 40 CFR §122.26(g)(1)(iii)</u>	<u>December 21, 2020</u>

(4) Signatory and Certification Standards for Electronic Reporting. The applicable signatory and certification requirements identified in 40 CFR part 3

(2016) and rule 335-6-5-.14 or 335-6-6-.09 shall apply to the electronic submission of the reports, notices, and certifications specified in paragraph (2) of this rule.

(5) Other Requirements.

(a) Persons subject to this rule shall comply with the applicable requirements for quality assurance and quality control specified in 40 CFR §127.13 (2016).

(b) Persons subject to this rule shall comply with the applicable requirements for timeliness, accuracy, completeness, and consistency specified in 40 CFR §127.14 (2016).

(6) Waivers from Electronic Reporting.

(a) Persons subject to this rule shall electronically submit to the Director the minimum set of data in compliance with this rule, 40 CFR part 3 (2016), and rule 335-6-5-.14 or 335-6-6-.09, as applicable, unless a waiver from electronic reporting is granted in compliance with this paragraph.

(b) Temporary Waivers. Temporary waivers from electronic reporting may be granted by the Director to persons subject to this rule.

1. Each temporary waiver from electronic reporting shall not extend beyond five years; however, persons subject to this rule may re-apply for a temporary waiver from electronic reporting. It is the duty of the person subject to this rule to re-apply for a new temporary waiver from electronic reporting. The Director cannot grant a temporary waiver from electronic reporting to a person subject to this rule without first receiving such a request from that person.

2. To apply for a temporary waiver from electronic reporting, the person subject to this rule shall submit the following information to the Director:

(i) Permittee and/or facility name;

(ii) NPDES or SID permit number (if applicable);

(iii) Facility address;

(iv) Name, address and contact information for the owner, operator, or duly authorized facility representative;

(v) Brief written statement regarding the basis for requesting the temporary waiver; and

(vi) Any other information required by the Department.

3. The Director shall determine whether to grant or deny a temporary waiver from electronic reporting. The Director shall provide notice of his/her

determination to the person submitting a request for a temporary waiver from electronic reporting as specified in subparagraph (6)(e) of this rule.

4. Persons subject to this rule who have been granted a temporary waiver from electronic reporting shall continue to provide to the Director the minimum set of data required as specified in Appendix A to 40 CFR part 127 (as well as other required information in compliance with statutes, regulations, the NPDES or SID permit, another control mechanism, or an enforcement order) in hard-copy format.

5. A temporary waiver from electronic reporting is not transferrable.

(c) Permanent Waivers. Permanent waivers from electronic reporting may be granted by the Director to persons subject to this rule.

1. Permanent waivers from electronic reporting are available only to facilities and entities owned and/or operated by members of religious communities that choose not to use certain modern technologies (e.g., computers, electricity). The Director cannot grant a permanent waiver from electronic reporting to a person subject to this rule without first receiving such a request from that person.

2. To apply for a permanent waiver from electronic reporting, the person subject to this rule shall submit the information listed in subparagraph (6)(b)2. of this rule to the Director.

3. The Director shall determine whether to grant or deny a permanent waiver from electronic reporting. The Director shall provide notice of his/her determination to the person submitting a request for a permanent waiver from electronic reporting as specified in subparagraph (6)(e) of this rule.

4. Persons subject to this rule that have been granted a permanent waiver from electronic reporting shall continue to provide to the Director the minimum set of data required as specified in Appendix A to 40 CFR part 127 (as well as other required information in compliance with statutes, regulations, the NPDES or SID permit, another control mechanism, or an enforcement order) in hard-copy format.

5. A permanent waiver from electronic reporting is not transferrable.

(d) Episodic Waivers. Episodic waivers from electronic reporting may be granted by the Director to persons subject to this rule. The following conditions apply to episodic waivers.

1. No waiver request is required for a person to obtain an episodic waiver from electronic reporting.

2. Episodic waivers from electronic reporting are not transferrable.

3. An episodic waiver from electronic reporting shall not extend beyond sixty days.

4. The Director shall decide if the episodic waiver provision allows persons to delay their electronic submissions for a short time (i.e., no more than forty days) or to submit in hard-copy format. Episodic waivers from electronic reporting are available to persons in the following circumstances:

(i) Large scale emergencies involving catastrophic circumstances beyond the control of the person, such as forces of nature (e.g., hurricanes, floods, fires, earthquakes) or other disasters.

(ii) Prolonged electronic reporting system outages (i.e., outages longer than ninety-six hours).

5. The Director shall provide notice, individually or through means of mass communication, when such an episodic waiver is available, to include: the persons that may use the episodic waiver; the likely duration of the episodic waiver; and any other directions regarding how those persons should provide the minimum set of data required as specified in Appendix A to 40 CFR part 127 (as well as other required information in compliance with statutes, regulations, the NPDES or SID permit, another control mechanism, or an enforcement order) to the Director.

(e) Review of requests for temporary and permanent waivers from electronic reporting.

1. The Director shall review requests for temporary and permanent waivers from electronic reporting and shall either grant or deny those requests within 120 days of receipt.

2. The Director shall provide the person requesting a temporary or permanent waiver from electronic reporting with notice that the request has been granted or denied.

Author: Christy Monk.

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

History: Effective XXXX XX, 2017.

ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23 (f))

Control No. 335 Department or Agency Environmental Management

Rule No: 335-6-1-.04

Rule Title: Electronic Reporting Requirements

New Amend Repeal Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

Impact of Revisions to Rule 335-6-1-.04

Rule 335-6-1-.04 of the ADEM Administrative Code reflects changes in the federal regulations promulgated by the EPA. These revisions allow the Alabama Department of Environmental Management to remain the initial recipient of the information required by the rule. In the event that these regulations are not adopted and implemented by the State, the EPA will implement these requirements on the federal level.

The Federal Register which is the basis for the revisions is submitted as an attachment to this package.

1. NEED/EXPECTED BENEFIT OF RULE:

The adoption of these revisions to Chapter 335-6-1 by the State of Alabama will allow the regulations to be implemented and enforced by the Alabama Department of Environment Management.

2. COST/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

There will be no additional cost incurred by the residents of, or companies operating in, the State of Alabama if the revisions to the federal regulations are incorporated and adopted by the State. The costs are equivalent to the cost of compliance with the same regulations implemented by the federal government. Sources of water pollution will be subject to the same requirements for electronic reporting regardless of which agency (state or federal) implements these regulations.

3. EFFECT OF THIS RULE ON COMPETITION:

Adoption of these federally required regulations is not expected to have any effect on competition. As stated above, if the regulations are not adopted by the State of Alabama, they will be implemented on the federal level, and Alabama companies will be required to comply with the federal regulations and answer directly to the federal Environmental Protection Agency (EPA).

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

Adoption of these federally required regulations is not expected to have any effect on the cost-of-living and doing business in the geographical area of implementation (State of Alabama). As stated above, if the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Therefore, Alabama companies still would be required to comply with the federal regulations and answer directly to the federal EPA.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

Adoption of these federally required regulations is not expected to have any effect on the employment in the geographical area in which the regulation would be implemented (State of Alabama).

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Revenue from the Federal Grant and fines and fees collected by the Department will fund the adoption of this regulation.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

The adoption of the proposed regulation is not expected to have any short-term or long-term economic impact. As stated above, if the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Alabama companies would still be required to comply with the federal regulations and answer directly to the federal EPA.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

No additional burdens are expected as a result of the adoption of these regulations. If the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Alabama companies would still be required to comply with the federal regulations and answer directly to the federal EPA.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

The effect of the regulation on the environment and public health is addressed in the accompanying Federal Register.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

The benefits of the proposed regulations have been discussed in the above paragraphs, as well as, the Federal Registers. Alabama is required to adopt these regulations by the EPA in order to continue to have primacy in implementing a water quality program. In the event that the regulations are not adopted at the State level, the requirements will still exist at the federal level. However, it is generally acknowledged that regulations are implemented and enforced in a more effective and efficient manner at the State level than at the federal level.