

APA-1  
11/96

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management  
Rule No. 335-6-10-.09  
Rule Title: Specific Water Quality Criteria  
     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 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    

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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.

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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

oAPA-2  
11/96

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
WATER DIVISION**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Alabama Department of Environmental Management  
**RULE NO. & TITLE:** 335-6-10-.09 Specific Water Quality Criteria (Amend)  
**INTENDED ACTION:** The Alabama Department of Environmental Management proposes to amend rule 335-6-10-.09.

**SUBSTANCE OF PROPOSED ACTION:**

The Department proposes to amend rule 335-6-10-.09(2) to add language to better represent the “fishable/swimmable” goal of the Department, extend the recreational use season from June through September to May through October, replace “outdoor swimming places” with “outdoor swimming areas”, and correct the single sample maximum *E. coli* bacteria criteria from 487 colonies/100 ml to 298 colonies/100 ml due to an error.

The Department proposes to amend rule 335-6-10-.09(3) to replace “outdoor swimming places” with “outdoor swimming areas”.

The Department proposes to amend rule 335-6-10-.09(4) to add language clarifying that Shellfish Harvesting use classification only applies to coastal waters; update the reference from *National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2011 Revision*, to *National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2015 Revision*; add language to better represent the “fishable/swimmable” goal of the Department; extend the recreational use season from June through September to May through October; replace “outdoor swimming places” with “outdoor swimming areas”; add bacteria criteria of the enterococci group not to exceed a maximum of 275 colonies/100 ml for the winter months; and remove the *E. coli* bacteria criteria because the Shellfish Harvesting use classification only applies to coastal waters.

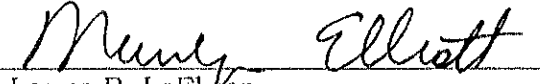
The Department proposes to amend rule 335-6-10-.09(5) to add language to better represent the “fishable/swimmable” goal of the Department, extend the recreational use season from June through September to May through October, replace “outdoor swimming places” with “outdoor swimming areas”, and correct the single sample maximum *E. coli* bacteria criteria from 487 colonies/100 ml to 298 colonies/100 ml due to an error.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:**

Comments may be submitted in writing or orally at a public hearing to be held at 1:00 P.M., 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:** Chris Johnson (334) 271-7827

  
Lance R. LeFleur  
Director

**335-6-10-.09 Specific Water Quality Criteria.**

**(1) OUTSTANDING ALABAMA WATER**

(a) Best usage of waters: activities consistent with the natural characteristics of the waters.

(b) Conditions related to best usage:

1. High quality waters that constitute an outstanding Alabama resource, such as waters of state parks and wildlife refuges and waters of exceptional recreational or ecological significance, may be considered for classification as an Outstanding Alabama Water (OAW).

(c) Specific criteria:

1. Sewage, industrial wastes, or other wastes:

(i) Existing point source discharges to an Outstanding Alabama Water shall be allowed; however, within three years of assignment of the OAW classification or at permit renewal, whichever is later, existing point sources shall be required to meet the effluent limitations specified for new point source discharges in subparagraph (ii) hereof.

(ii) New point source discharges or expansions of existing point source discharges shall not be allowed unless a thorough evaluation of all practicable treatment and disposal alternatives by the permit applicant has demonstrated to the satisfaction of the Department that there is no feasible alternative to discharge to the waters classified OAW. At a minimum, domestic wastewater discharges shall be required to meet monthly average effluent limitations of 15 mg/l biochemical oxygen demand (5-day), 3 mg/l ammonia nitrogen, and 6 mg/l dissolved oxygen, and shall be required to provide disinfection of the effluent. Non-domestic wastewater discharges shall be required to provide a comparably stringent level of treatment as determined by the Department.

(iii) Effluent limitations for new point source discharges or expansions of existing point source discharges to waters upstream of, or tributary to, waters classified OAW shall be established by the Department such that the impact of the discharge within the waters classified OAW is no greater than if the discharge occurred at the OAW boundary at the treatment levels specified in subparagraph (ii) hereof.

(iv) All NPDES permits shall contain toxics limits that will ensure compliance with all applicable water quality standards. Such limits shall be acute and chronic toxicity limits for individual toxic substances, whole effluent toxicity limits, or both. For permittees subject to whole effluent toxicity limitations, both acute and chronic testing will be required. Whole effluent acute toxicity will be demonstrated if the effluent causes more than 10 percent mortality of test organisms when tested at an effluent concentration of 100 percent. For permittees whose discharge will result in an in-stream waste concentration of 10

percent or more, whole effluent chronic toxicity limits will be based on an in-stream concentration of 100 percent; for permittees whose discharge will result in an in-stream waste concentration of less than 10 percent, whole effluent chronic toxicity limits will be based on the in-stream waste concentration.

(v) Nonpoint source discharges shall use best management practices adequate to protect water quality consistent with the Department's nonpoint source control program.

(vi) All NPDES permits and nonpoint sources shall incorporate or employ water pollution prevention or waste reduction measures as established by the Department.

2. pH: sewage, industrial wastes or other wastes shall not cause the pH to deviate more than one unit from the normal or natural pH, nor be less than 6.0, nor greater than 8.5. For salt waters and estuarine waters to which this classification is assigned, wastes as herein described shall not cause the pH to deviate more than one unit from the normal or natural pH, nor be less than 6.5, nor greater than 8.5.

3. Temperature:

(i) The maximum temperature in streams, lakes, and reservoirs, other than those in river basins listed in subparagraph (ii) hereof, shall not exceed 90 °F.

(ii) The maximum temperature in streams, lakes, and reservoirs in the Tennessee and Cahaba River Basins, and for that portion of the Tallapoosa River Basin from the tailrace of Thurlow Dam at Tallassee downstream to the junction of the Coosa and Tallapoosa Rivers which has been classified by the Alabama Department of Conservation and Natural Resources as supporting smallmouth bass, sauger, or walleye, shall not exceed 86 °F.

(iii) The maximum in-stream temperature rise above ambient water temperature due to the addition of artificial heat by a discharger shall not exceed 5 °F in streams, lakes, and reservoirs in non-coastal and non-estuarine areas.

(iv) The maximum in-stream temperature rise above ambient water temperature due to the addition of artificial heat by a discharger shall not exceed 4 °F in coastal or estuarine waters during the period October through May, nor shall the rise exceed 1.5 °F during the period June through September.

(v) In lakes and reservoirs there shall be no withdrawal from, nor discharge of heated waters to, the hypolimnion unless it can be shown that such discharge or withdrawal will be beneficial to water quality.

(vi) In all waters the normal daily and seasonal temperature variations that were present before the addition of artificial heat shall be maintained, and there shall be no thermal block to the migration of aquatic organisms.

(vii) Thermal permit limitations in NPDES permits may be less stringent than those required by subparagraphs (i) - (iv) hereof when a showing by the discharger has been made pursuant to Section 316 of the Federal Water Pollution Control Act (FWPCA), 33 U.S.C. § 1251 et seq. or pursuant to a study of an equal or more stringent nature required by the State of Alabama authorized by Title 22, Section 22-22-9(c), Code of Alabama 1975, that such limitations will assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, in and on the body of water to which the discharge is made. Any such demonstration shall take into account the interaction of the thermal discharge component with other pollutants discharged.

4. Dissolved oxygen:

(i) For a diversified warm water biota, including game fish, daily dissolved oxygen concentrations shall not be less than 5.5 mg/l at all times; except under extreme conditions due to natural causes, it may range between 5.5 mg/l and 4 mg/l, provided that the water quality is favorable in all other parameters. The normal seasonal and daily fluctuations shall be maintained above these levels. In no event shall the dissolved oxygen level be less than 4 mg/l due to hydroelectric turbine discharges from existing hydroelectric generation impoundments. All new hydroelectric generation impoundments, including addition of new hydroelectric generation units to existing impoundments, shall be designed so that the discharge will contain at least 5.5 mg/l dissolved oxygen where practicable and technologically possible. The Environmental Protection Agency, in cooperation with the State of Alabama and parties responsible for impoundments, shall develop a program to improve the design of existing facilities.

(ii) In coastal waters, surface dissolved oxygen concentrations shall not be less than 5.5 mg/l, except where natural phenomena cause the value to be depressed.

(iii) In estuaries and tidal tributaries, dissolved oxygen concentrations shall not be less than 5.5 mg/l, except in dystrophic waters or where natural conditions cause the value to be depressed.

(iv) In the application of dissolved oxygen criteria referred to above, dissolved oxygen shall be measured at a depth of 5 feet in waters 10 feet or greater in depth; and for those waters less than 10 feet in depth, dissolved oxygen criteria will be applied at mid-depth.

5. Toxic substances attributable to sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances, as will not exhibit acute toxicity or chronic toxicity, as demonstrated by effluent toxicity testing or by application of numeric criteria given in rule 335-6-10-.07, to fish and aquatic life, including shrimp and crabs in estuarine or salt waters or the propagation thereof.

6. Taste, odor, and color-producing substances attributable to sewage, industrial wastes, or other wastes: only such amounts, whether alone or in

combination with other substances, as will not exhibit acute toxicity or chronic toxicity, as demonstrated by effluent toxicity testing or by application of numeric criteria given in rule 335-6-10-.07, to fish and aquatic life, including shrimp and crabs in estuarine and salt waters or adversely affect the propagation thereof; impair the palatability or marketability of fish and wildlife or shrimp and crabs in estuarine and salt waters; or unreasonably affect the aesthetic value of waters for any use under this classification.

7. Bacteria: in non-coastal waters, bacteria of the *E. coli* group shall not exceed a geometric mean of 126 colonies/100 ml nor exceed a maximum of 235 colonies/100 ml in any sample. In coastal waters, bacteria of the enterococci group shall not exceed a geometric mean of 35 colonies/100 ml nor exceed a maximum of 104 colonies/100 ml in any sample. The geometric mean shall be calculated from no less than five samples collected at a given station over a 30-day period at intervals not less than 24 hours.

8. Radioactivity: the concentrations of radioactive materials present shall not exceed the requirements of the State Department of Public Health.

9. Turbidity: there shall be no turbidity of other than natural origin that will cause substantial visible contrast with the natural appearance of waters or interfere with any beneficial uses which they serve. Furthermore, in no case shall turbidity exceed 50 Nephelometric units above background. Background will be interpreted as the natural condition of the receiving waters without the influence of man-made or man-induced causes. Turbidity levels caused by natural runoff will be included in establishing background levels.

(2) **PUBLIC WATER SUPPLY**

(a) Best usage of waters: source of water supply for drinking or food-processing purposes.\*

(b) Conditions related to best usage: the waters, if subjected to treatment approved by the Department equal to coagulation, sedimentation, filtration and disinfection, with additional treatment if necessary to remove naturally present impurities, and which meet the requirements of the Department, will be considered safe for drinking or food-processing purposes.

(c) Other usage of waters: it is recognized that the waters may be used for incidental water contact year-round and for whole body water-contact recreation during the months of June-May through SeptemberOctober, except that water contact is strongly discouraged in the vicinity of discharges or other conditions beyond the control of the Department or the Alabama Department of Public Health.

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\* **NOTE:** In determining the safety or suitability of waters for use as sources of water supply for drinking or food-processing purposes after approved treatment, the Commission will be guided by the physical and chemical standards specified by the Department.

(d) Conditions related to other usage: the waters, under proper sanitary supervision by the controlling health authorities, will meet accepted standards of water quality for outdoor swimming ~~places~~areas and will be considered satisfactory for swimming and other whole body water-contact sports.

(e) Specific criteria:

1. Sewage, industrial wastes, or other wastes: none which are not effectively treated or controlled in accordance with rule 335-6-10-.08.

2. pH: sewage, industrial wastes or other wastes shall not cause the pH to deviate more than one unit from the normal or natural pH, nor be less than 6.0, nor greater than 8.5.

3. Temperature:

(i) The maximum temperature in streams, lakes, and reservoirs, other than those in river basins listed in subparagraph (ii) hereof, shall not exceed 90 °F.

(ii) The maximum temperature in streams, lakes, and reservoirs in the Tennessee and Cahaba River Basins, and for that portion of the Tallapoosa River Basin from the tailrace of Thurlow Dam at Tallassee downstream to the junction of the Coosa and Tallapoosa Rivers which has been designated by the Alabama Department of Conservation and Natural Resources as supporting smallmouth bass, sauger, or walleye, shall not exceed 86 °F.

(iii) The maximum in-stream temperature rise above ambient water temperature due to the addition of artificial heat by a discharger shall not exceed 5 °F in streams, lakes, and reservoirs in non-coastal and non-estuarine areas.

(iv) The maximum in-stream temperature rise above ambient water temperature due to the addition of artificial heat by a discharger shall not exceed 4 °F in coastal or estuarine waters during the period October through May, nor shall the rise exceed 1.5 °F during the period June through September.

(v) In lakes and reservoirs there shall be no withdrawal from, nor discharge of heated waters to, the hypolimnion unless it can be shown that such discharge or withdrawal will be beneficial to water quality.

(vi) In all waters the normal daily and seasonal temperature variations that were present before the addition of artificial heat shall be maintained, and there shall be no thermal block to the migration of aquatic organisms.

(vii) Thermal permit limitations in NPDES permits may be less stringent than those required by subparagraphs (i) - (iv) hereof when a showing by the discharger has been made pursuant to Section 316 of the Federal Water Pollution Control Act (FWPCA), 33 U.S.C. § 1251 et seq. or pursuant to a study of an equal or more stringent nature required by the State of Alabama authorized by Title 22, Section 22-22-9(c), Code of Alabama, 1975, that such limitations will assure the



protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, in and on the body of water to which the discharge is made. Any such demonstration shall take into account the interaction of the thermal discharge component with other pollutants discharged.

4. Dissolved oxygen:

(i) For a diversified warm water biota, including game fish, daily dissolved oxygen concentrations shall not be less than 5 mg/l at all times; except under extreme conditions due to natural causes, it may range between 5 mg/l and 4 mg/l, provided that the water quality is favorable in all other parameters. The normal seasonal and daily fluctuations shall be maintained above these levels. In no event shall the dissolved oxygen level be less than 4 mg/l due to discharges from existing hydroelectric generation impoundments. All new hydroelectric generation impoundments, including addition of new hydroelectric generation units to existing impoundments, shall be designed so that the discharge will contain at least 5 mg/l dissolved oxygen where practicable and technologically possible. The Environmental Protection Agency, in cooperation with the State of Alabama and parties responsible for impoundments, shall develop a program to improve the design of existing facilities.

(ii) In coastal waters, surface dissolved oxygen concentrations shall not be less than 5 mg/l, except where natural phenomena cause the value to be depressed.

(iii) In estuaries and tidal tributaries, dissolved oxygen concentrations shall not be less than 5 mg/l, except in dystrophic waters or where natural conditions cause the value to be depressed.

(iv) In the application of dissolved oxygen criteria referred to above, dissolved oxygen shall be measured at a depth of 5 feet in waters 10 feet or greater in depth; and for those waters less than 10 feet in depth, dissolved oxygen criteria will be applied at mid-depth.

5. Toxic substances; color producing; heated liquids; or other deleterious substances attributable to sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances, and only such temperatures as will not render the waters unsafe or unsuitable as a source of water supply for drinking or food-processing purposes, or exhibit acute toxicity or chronic toxicity, as demonstrated by effluent toxicity testing or by application of numeric criteria given in rule 335-6-10-.07, to fish, wildlife and aquatic life, or adversely affect the aesthetic value of waters for any use under this classification.

6. Taste and odor producing substances attributable to sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or wastes, as will not cause taste and odor difficulties in water supplies which cannot be corrected by treatment as specified under subparagraph (b), or impair the palatability of fish.

7. Bacteria:

(i) In non-coastal waters, bacteria of the *E. coli* group shall not exceed a geometric mean of 548 colonies/100 ml; nor exceed a maximum of 2,507 colonies/100 ml in any sample. The geometric mean shall be calculated from no less than five samples collected at a given station over a 30-day period at intervals not less than 24 hours. In coastal waters, bacteria of the enterococci group shall not exceed a maximum of 275 colonies/100 ml in any sample.

(ii) For incidental water contact and whole body water-contact recreation during the months of June–May through September~~October~~, the bacterial quality of water is acceptable when a sanitary survey by the controlling health authorities reveals no source of dangerous pollution and when the geometric mean *E. coli* organism density does not exceed 126 colonies/100 ml nor exceed a maximum of ~~487~~298 colonies / 100 ml in any single sample in non-coastal waters. In coastal waters, bacteria of the enterococci group shall not exceed a geometric mean of 35 colonies/100 ml nor exceed a maximum of 158 colonies/100 ml in any sample. The geometric mean shall be calculated from no less than five samples collected at a given station over a 30-day period at intervals not less than 24 hours. When the geometric mean bacterial organism density exceeds these levels, the bacterial water quality shall be considered acceptable only if a second detailed sanitary survey and evaluation discloses no significant public health risk in the use of the waters. Waters in the immediate vicinity of discharges of sewage or other wastes likely to contain bacteria harmful to humans, regardless of the degree of treatment afforded these wastes, are not acceptable for swimming or other whole body water-contact sports.

8. Radioactivity: no radionuclide or mixture of radionuclides shall be present at concentrations greater than those specified by the requirements of the State Department of Public Health.

9. Turbidity: there shall be no turbidity of other than natural origin that will cause substantial visible contrast with the natural appearance of waters or interfere with any beneficial uses which they serve. Furthermore, in no case shall turbidity exceed 50 Nephelometric units above background. Background will be interpreted as the natural condition of the receiving waters, without the influence of man-made or man-induced causes. Turbidity levels caused by natural runoff will be included in establishing background levels.

**(3) SWIMMING AND OTHER WHOLE BODY WATER-CONTACT SPORTS**

(a) Best usage of waters: swimming and other whole body water-contact sports.\*

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\* **NOTE:** In assigning this classification to waters intended for swimming and water-contact sports, the Commission will take into consideration the relative proximity of discharges of wastes and will recognize the potential hazards involved in locating swimming areas close to waste discharges. The Commission

(b) Conditions related to best usage: the waters, under proper sanitary supervision by the controlling health authorities, will meet accepted standards of water quality for outdoor swimming ~~places~~areas and will be considered satisfactory for swimming and other whole body water-contact sports. The quality of waters will also be suitable for the propagation of fish, wildlife and aquatic life. The quality of salt waters and estuarine waters to which this classification is assigned will be suitable for the propagation and harvesting of shrimp and crabs.

(c) Specific criteria:

1. Sewage, industrial wastes, or other wastes: none which are not effectively treated or controlled in accordance with rule 335-6-10-.08.

2. pH: sewage, industrial wastes or other wastes shall not cause the pH to deviate more than one unit from the normal or natural pH, nor be less than 6.0, nor greater than 8.5. For estuarine waters and salt waters to which this classification is assigned, wastes as described herein shall not cause the pH to deviate more than one unit from the normal or natural pH, nor be less than 6.5, nor greater than 8.5.

3. Temperature:

(i) The maximum temperature in streams, lakes, and reservoirs, other than those in river basins listed in subparagraph (ii) hereof, shall not exceed 90 °F.

(ii) The maximum temperature in streams, lakes, and reservoirs in the Tennessee and Cahaba River Basins, and for that portion of the Tallapoosa River Basin from the tailrace of Thurlow Dam at Tallassee downstream to the junction of the Coosa and Tallapoosa Rivers which has been designated by the Alabama Department of Conservation and Natural Resources as supporting smallmouth bass, sauger, or walleye, shall not exceed 86 °F.

(iii) The maximum in-stream temperature rise above ambient water temperature due to the addition of artificial heat by a discharger shall not exceed 5 °F in streams, lakes, and reservoirs in non-coastal and non-estuarine areas.

(iv) The maximum in-stream temperature rise above ambient water temperature due to the addition of artificial heat by a discharger shall not exceed 4 °F in coastal or estuarine waters during the period October through May, nor shall the rise exceed 1.5 °F during the period June through September.

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will not assign this classification to waters, the bacterial quality of which is dependent upon adequate disinfection of waste and where the interruption of such treatment would render the water unsafe for bathing.

(v) In lakes and reservoirs there shall be no withdrawal from, nor discharge of heated waters to, the hypolimnion unless it can be shown that such discharge or withdrawal will be beneficial to water quality.

(vi) In all waters the normal daily and seasonal temperature variations that were present before the addition of artificial heat shall be maintained, and there shall be no thermal block to the migration of aquatic organisms.

(vii) Thermal permit limitations in NPDES permits may be less stringent than those required by subparagraphs (i) - (iv) hereof when a showing by the discharger has been made pursuant to Section 316 of the Federal Water Pollution Control Act (FWPCA), 33 U.S.C. § 1251 et seq. or pursuant to a study of an equal or more stringent nature required by the State of Alabama authorized by Title 22, Section 22-22-9(c), Code of Alabama, 1975, that such limitations will assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, in and on the body of water to which the discharge is made. Any such demonstration shall take into account the interaction of the thermal discharge component with other pollutants discharged.

#### 4. Dissolved oxygen:

(i) For a diversified warm water biota, including game fish, daily dissolved oxygen concentrations shall not be less than 5 mg/l at all times; except under extreme conditions due to natural causes, it may range between 5 mg/l and 4 mg/l, provided that the water quality is favorable in all other parameters. The normal seasonal and daily fluctuations shall be maintained above these levels. In no event shall the dissolved oxygen level be less than 4 mg/l due to discharges from existing hydroelectric generation impoundments. All new hydroelectric generation impoundments, including addition of new hydroelectric generation units to existing impoundments, shall be designed so that the discharge will contain at least 5 mg/l dissolved oxygen where practicable and technologically possible. The Environmental Protection Agency, in cooperation with the State of Alabama and parties responsible for impoundments, shall develop a program to improve the design of existing facilities.

(ii) In coastal waters, surface dissolved oxygen concentrations shall not be less than 5 mg/l, except where natural phenomena cause the value to be depressed.

(iii) In estuaries and tidal tributaries, dissolved oxygen concentrations shall not be less than 5 mg/l, except in dystrophic waters or where natural conditions cause the value to be depressed.

(iv) In the application of dissolved oxygen criteria referred to above, dissolved oxygen shall be measured at a depth of 5 feet in waters 10 feet or greater in depth; and for those waters less than 10 feet in depth, dissolved oxygen criteria will be applied at mid-depth.

#### 5. Toxic substances; color producing substances; odor producing substances; or other deleterious substances attributable to sewage, industrial

wastes, or other wastes: only such amounts, whether alone or in combination with other substances or wastes, as will not render the water unsafe or unsuitable for swimming and water-contact sports; exhibit acute toxicity or chronic toxicity, as demonstrated by effluent toxicity testing or by application of numeric criteria given in rule 335-6-10-.07, to fish, wildlife, and aquatic life or, where applicable, shrimp and crabs; impair the palatability of fish, or where applicable, shrimp and crabs; impair the waters for any other usage established for this classification or unreasonably affect the aesthetic value of waters for any use under this classification.

6. Bacteria:

(i) Waters in the immediate vicinity of discharges of sewage or other wastes likely to contain bacteria harmful to humans, regardless of the degree of treatment afforded these wastes\*, are not acceptable for swimming or other whole body water-contact sports.

(ii) In all other areas, the bacterial quality of water is acceptable when a sanitary survey by the controlling health authorities reveals no source of dangerous pollution and when the geometric mean *E. coli* organism density does not exceed 126 colonies/100 ml nor exceed a maximum of 235 colonies/100 ml in any sample in non-coastal waters. In coastal waters, bacteria of the enterococci group shall not exceed a geometric mean of 35 colonies/100 ml nor exceed a maximum of 104 colonies/100 ml in any sample. The geometric mean shall be calculated from no less than five samples collected at a given station over a 30-day period at intervals not less than 24 hours. When the geometric mean bacterial organism density exceeds these levels, the bacterial water quality shall be considered acceptable only if a second detailed sanitary survey and evaluation discloses no significant public health risk in the use of the waters.

(iii) The policy of nondegradation of high quality waters shall be stringently applied to bacterial quality of recreational waters.

7. Radioactivity: the concentrations of radioactive materials present shall not exceed the requirement of the State Department of Public Health.

8. Turbidity: there shall be no turbidity of other than natural origin that will cause substantial visible contrast with the natural appearance of waters or interfere with any beneficial uses which they serve. Furthermore, in no case shall turbidity exceed 50 Nephelometric units above background. Background will be interpreted as the natural condition of the receiving waters, without the

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\* **NOTE:** In assigning this classification to waters intended for swimming and water-contact sports, the Commission will take into consideration the relative proximity of discharges of wastes and will recognize the potential hazards involved in locating swimming areas close to waste discharges. The Commission will not assign this classification to waters, the bacterial quality of which is dependent upon adequate disinfection of waste and where the interruption of such treatment would render the water unsafe for bathing.

influence of man-made or man-induced causes. Turbidity levels caused by natural runoff will be included in establishing background levels.

(4) **SHELLFISH HARVESTING**

(a) Best usage of waters: propagation and harvesting of shellfish for sale or use as a food product.

(b) Conditions related to best usage: waters will meet the sanitary and bacteriological standards included in the *National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2011-2015 Revision*, published by the Food and Drug Administration, U.S. Department of Health and Human Services and the requirements of the State Department of Public Health. The waters will also be of a quality suitable for the propagation of fish and other aquatic life, including shrimp and crabs. Only coastal waters may be considered for classification as Shellfish Harvesting.

(c) Other usage of waters: it is recognized that the waters may be used for incidental water contact year-round and for whole body water-contact recreation during the months of June-May through SeptemberOctober, except that water contact is strongly discouraged in the vicinity of discharges or other conditions beyond the control of the Department or the Alabama Department of Public Health.

(d) Conditions related to other usage: the waters, under proper sanitary supervision by the controlling health authorities, will meet accepted standards of water quality for outdoor swimming places-areas and will be considered satisfactory for swimming and other whole body water-contact sports.

(e) Specific criteria:

1. Sewage, industrial wastes, or other wastes: none which are not effectively treated in accordance with rule 335-6-10-.08.

2. pH: sewage, industrial wastes or other wastes shall not cause the pH to deviate more than one unit from the normal or natural pH, nor be less than 6.5, nor greater than 8.5.

3. Temperature:

(i) The maximum temperature in streams, lakes, and reservoirs, other than those in river basins listed in subparagraph (ii) hereof, shall not exceed 90 °F.

(ii) The maximum temperature in streams, lakes, and reservoirs in the Tennessee and Cahaba River Basins, and for that portion of the Tallapoosa River Basin from the tailrace of Thurlow Dam at Tallassee downstream to the junction of the Coosa and Tallapoosa Rivers which has been designated by the Alabama Department of Conservation and Natural Resources as supporting smallmouth bass, sauger, or walleye, shall not exceed 86 °F.

(iii) The maximum in-stream temperature rise above ambient water temperature due to the addition of artificial heat by a discharger shall not exceed 5 °F in streams, lakes, and reservoirs in non-coastal and non-estuarine areas.

(iv) The maximum in-stream temperature rise above ambient water temperature due to the addition of artificial heat by a discharger shall not exceed 4 °F in coastal or estuarine waters during the period October through May, nor shall the rise exceed 1.5 °F during the period June through September.

(v) In lakes and reservoirs there shall be no withdrawal from, nor discharge of heated waters to, the hypolimnion unless it can be shown that such discharge or withdrawal will be beneficial to water quality.

(vi) In all waters the normal daily and seasonal temperature variations that were present before the addition of artificial heat shall be maintained, and there shall be no thermal block to the migration of aquatic organisms.

(vii) Thermal permit limitations in NPDES permits may be less stringent than those required by subparagraphs (i) - (iv) hereof when a showing by the discharger has been made pursuant to Section 316 of the Federal Water Pollution Control Act (FWPCA), 33 U.S.C. § 1251 et seq. or pursuant to a study of an equal or more stringent nature required by the State of Alabama authorized by Title 22, Section 22-22-9(c), Code of Alabama, 1975, that such limitations will assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, in and on the body of water to which the discharge is made. Any such demonstration shall take into account the interaction of the thermal discharge component with other pollutants discharged.

#### 4. Dissolved oxygen:

(i) For a diversified warm water biota, including game fish, daily dissolved oxygen concentrations shall not be less than 5 mg/l at all times; except under extreme conditions due to natural causes, it may range between 5 mg/l and 4 mg/l, provided that the water quality is favorable in all other parameters. The normal seasonal and daily fluctuations shall be maintained above these levels. In no event shall the dissolved oxygen level be less than 4 mg/l due to discharges from existing hydroelectric generation impoundments. All new hydroelectric generation impoundments, including addition of new hydroelectric generation units to existing impoundments, shall be designed so that the discharge will contain at least 5 mg/l dissolved oxygen where practicable and technologically possible. The Environmental Protection Agency, in cooperation with the State of Alabama and parties responsible for impoundments, shall develop a program to improve the design of existing facilities.

(ii) In coastal waters, surface dissolved oxygen concentrations shall not be less than 5 mg/l, except where natural phenomena cause the value to be depressed.

(iii) In estuaries and tidal tributaries, dissolved oxygen concentrations shall not be less than 5 mg/l, except in dystrophic waters or where natural conditions cause the value to be depressed.

(iv) In the application of dissolved oxygen criteria referred to above, dissolved oxygen shall be measured at a depth of 5 feet in waters 10 feet or greater in depth; and for those waters less than 10 feet in depth, dissolved oxygen criteria will be applied at mid-depth.

5. Toxic substances attributable to sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances, as will not exhibit acute toxicity or chronic toxicity, as demonstrated by effluent toxicity testing or by application of numeric criteria given in rule 335-6-10-.07, to fish and aquatic life, including shrimp and crabs; or affect the marketability of fish and shellfish, including shrimp and crabs.

6. Color, taste, and odor-producing substances and other deleterious substances attributable to sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances, as will not exhibit acute toxicity or chronic toxicity, as demonstrated by effluent toxicity testing or by application of numeric criteria given in rule 335-6-10-.07, to fish and shellfish, including shrimp and crabs; adversely affect marketability or palatability of fish and shellfish, including shrimp and crabs; or unreasonably affect the aesthetic value of waters for any use under this classification.

7. Bacteria:

(i) Not to exceed the limits specified in the *National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2011-2015 Revision*, published by the Food and Drug Administration, U.-S. Department of Health and Human Services.

(ii) In coastal waters, bacteria of the enterococci group shall not exceed a maximum of 275 colonies/100 ml in any sample.

(iii) For incidental water contact and whole body water-contact recreation during the months of June–May through SeptemberOctober, the bacterial quality of water is acceptable when a sanitary survey by the controlling health authorities reveals no source of dangerous pollution and when the geometric mean *E. coli* organism density does not exceed 126 colonies/100 ml nor exceed a maximum of 235 colonies/100 ml in any sample in non-coastal waters. In coastal waters, bacteria of the enterococci group shall does not exceed a geometric mean of 35 colonies/100 ml nor exceed a maximum of 104 colonies/100 ml in any sample in coastal waters. The geometric mean shall be calculated from no less than five samples collected at a given station over a 30-day period at intervals not less than 24 hours. When the geometric mean bacterial organism density exceeds these levels, the bacterial water quality shall be considered acceptable only if a second detailed sanitary survey and evaluation discloses no significant public health risk in the use of the waters. Waters in the immediate vicinity of discharges of sewage or other wastes likely to contain



bacteria harmful to humans, regardless of the degree of treatment afforded these wastes, are not acceptable for swimming or other whole body water-contact sports.

8. Radioactivity: the concentrations of radioactive materials present shall not exceed the requirements of the State Department of Public Health.

9. Turbidity: there shall be no turbidity of other than natural origin that will cause substantial visible contrast with the natural appearance of waters or interfere with any beneficial uses which they serve. Furthermore, in no case shall turbidity exceed 50 Nephelometric units above background. Background will be interpreted as the natural condition of the receiving waters without the influence of man-made or man-induced causes. Turbidity levels caused by natural runoff will be included in establishing background levels.

(5) **FISH AND WILDLIFE**

(a) Best usage of waters: fishing, propagation of fish, aquatic life, and wildlife, ~~and any other usage except for swimming and water contact sports or as a source of water supply for drinking or food processing purposes.~~

(b) Conditions related to best usage: the waters will be suitable for fish, aquatic life and wildlife propagation. The quality of salt and estuarine waters to which this classification is assigned will also be suitable for the propagation of shrimp and crabs.

(c) Other usage of waters: it is recognized that the waters may be used for incidental water contact year-round and whole body water-contact recreation during the months of June-May through September~~October~~, except that water contact is strongly discouraged in the vicinity of discharges or other conditions beyond the control of the Department or the Alabama Department of Public Health.

(d) Conditions related to other usage: the waters, under proper sanitary supervision by the controlling health authorities, will meet accepted standards of water quality for outdoor swimming ~~places~~areas and will be considered satisfactory for swimming and other whole body water-contact sports.

(e) Specific criteria:

1. Sewage, industrial wastes, or other wastes: none which are not effectively treated in accordance with rule 335-6-10-.08.

2. pH: sewage, industrial wastes or other wastes shall not cause the pH to deviate more than one unit from the normal or natural pH, nor be less than 6.0, nor greater than 8.5. For salt waters and estuarine waters to which this classification is assigned, wastes as herein described shall not cause the pH to deviate more than one unit from the normal or natural pH, nor be less than 6.5, nor greater than 8.5.

3. Temperature:

(i) The maximum temperature in streams, lakes, and reservoirs, other than those in river basins listed in subparagraph (ii) hereof, shall not exceed 90° F.

(ii) The maximum temperature in streams, lakes, and reservoirs in the Tennessee and Cahaba River Basins, and for that portion of the Tallapoosa River Basin from the tailrace of Thurlow Dam at Tallassee downstream to the junction of the Coosa and Tallapoosa Rivers which has been designated by the Alabama Department of Conservation and Natural Resources as supporting smallmouth bass, sauger, or walleye, shall not exceed 86 °F.

(iii) The maximum in-stream temperature rise above ambient water temperature due to the addition of artificial heat by a discharger shall not exceed 5 °F in streams, lakes, and reservoirs in non-coastal and non-estuarine areas.

(iv) The maximum in-stream temperature rise above ambient water temperature due to the addition of artificial heat by a discharger shall not exceed 4 °F in coastal or estuarine waters during the period October through May, nor shall the rise exceed 1.5 °F during the period June through September.

(v) In lakes and reservoirs there shall be no withdrawal from, nor discharge of heated waters to, the hypolimnion unless it can be shown that such discharge or withdrawal will be beneficial to water quality.

(vi) In all waters the normal daily and seasonal temperature variations that were present before the addition of artificial heat shall be maintained, and there shall be no thermal block to the migration of aquatic organisms.

(vii) Thermal permit limitations in NPDES permits may be less stringent than those required by subparagraphs (i) - (iv) hereof when a showing by the discharger has been made pursuant to Section 316 of the Federal Water Pollution Control Act (FWPCA), 33 U.S.C. § 1251 *et seq.*, or pursuant to a study of an equal or more stringent nature required by the State of Alabama authorized by Title 22, Section 22-22-9(c), Code of Alabama, 1975, that such limitations will assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, in and on the body of water to which the discharge is made. Any such demonstration shall take into account the interaction of the thermal discharge component with other pollutants discharged.

#### 4. Dissolved oxygen:

(i) For a diversified warm water biota, including game fish, daily dissolved oxygen concentrations shall not be less than 5 mg/l at all times; except under extreme conditions due to natural causes, it may range between 5 mg/l and 4 mg/l, provided that the water quality is favorable in all other parameters. The normal seasonal and daily fluctuations shall be maintained above these levels. In no event shall the dissolved oxygen level be less than 4 mg/l due to discharges from existing hydroelectric generation impoundments. All new hydroelectric generation impoundments, including addition of new hydroelectric generation units to existing impoundments, shall be designed so that the discharge will contain at least 5 mg/l dissolved oxygen where practicable and technologically possible. The Environmental Protection Agency, in cooperation with the State of Alabama and parties responsible for impoundments, shall develop a program to improve the design of existing facilities.

(ii) In coastal waters, surface dissolved oxygen concentrations shall not be less than 5 mg/l, except where natural phenomena cause the value to be depressed.

(iii) In estuaries and tidal tributaries, dissolved oxygen concentrations shall not be less than 5 mg/l, except in dystrophic waters or where natural conditions cause the value to be depressed.

(iv) In the application of dissolved oxygen criteria referred to above, dissolved oxygen shall be measured at a depth of 5 feet in waters 10 feet or greater in depth; and for those waters less than 10 feet in depth, dissolved oxygen criteria will be applied at mid-depth.

5. Toxic substances attributable to sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances, as will not exhibit acute toxicity or chronic toxicity, as demonstrated by effluent toxicity testing or by application of numeric criteria given in rule 335-6-10-.07, to fish and aquatic life, including shrimp and crabs in estuarine or salt waters or the propagation thereof.

6. Taste, odor, and color-producing substances attributable to sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances, as will not exhibit acute toxicity or chronic toxicity, as demonstrated by effluent toxicity testing or by application of numeric criteria given in rule 335-6-10-.07, to fish and aquatic life, including shrimp and crabs in estuarine and salt waters or adversely affect the propagation thereof; impair the palatability or marketability of fish and wildlife or shrimp and crabs in estuarine and salt waters; or unreasonably affect the aesthetic value of waters for any use under this classification.

7. Bacteria:

(i) In non-coastal waters, bacteria of the *E. coli* group shall not exceed a geometric mean of 548 colonies/100 ml; nor exceed a maximum of 2,507 colonies/100 ml in any sample. In coastal waters, bacteria of the enterococci group shall not exceed a maximum of 275 colonies/100 ml in any sample. The geometric mean shall be calculated from no less than five samples collected at a given station over a 30-day period at intervals not less than 24 hours.

(ii) For incidental water contact and whole body water-contact recreation during the months of June–May through SeptemberOctober, the bacterial quality of water is acceptable when a sanitary survey by the controlling health authorities reveals no source of dangerous pollution and when the geometric mean *E. coli* organism density does not exceed 126 colonies/100 ml nor exceed a maximum of 487-298 colonies/100 ml in any sample in non-coastal waters. In coastal waters, bacteria of the enterococci group shall not exceed a geometric mean of 35 colonies/100 ml nor exceed a maximum of 158 colonies/100 ml in any sample. The geometric mean shall be calculated from no less than five samples collected at a given station over a 30-day period at intervals not less than 24 hours. When the geometric bacterial coliform organism density exceeds these levels, the bacterial water quality shall be considered acceptable only if a second detailed sanitary survey and evaluation discloses no significant public health risk in the use of the waters. Waters in the immediate vicinity of discharges of sewage or other wastes likely to contain bacteria harmful to

humans, regardless of the degree of treatment afforded these wastes, are not acceptable for swimming or other whole body water-contact sports.

8. Radioactivity: the concentrations of radioactive materials present shall not exceed the requirements of the State Department of Public Health.

9. Turbidity: there shall be no turbidity of other than natural origin that will cause substantial visible contrast with the natural appearance of waters or interfere with any beneficial uses which they serve. Furthermore, in no case shall turbidity exceed 50 Nephelometric units above background. Background will be interpreted as the natural condition of the receiving waters without the influence of man-made or man-induced causes. Turbidity levels caused by natural runoff will be included in establishing background levels.

(6) **LIMITED WARMWATER FISHERY**

(a) The provisions of the Fish and Wildlife water use classification at rule 335-6-10-.09(5) shall apply to the Limited Warmwater Fishery water use classification, except as noted below. Unless alternative criteria for a given parameter are provided in paragraph (e) below, the applicable Fish and Wildlife criteria at paragraph 10-.09(5)(e) shall apply year-round. At the time the Department proposes to assign the Limited Warmwater Fishery classification to a specific waterbody, the Department may apply criteria from other classifications within this chapter if necessary to protect a documented, legitimate existing use.

(b) Best usage of waters (May through November): agricultural irrigation, livestock watering, industrial cooling and process water supplies, and any other usage, except fishing, bathing, recreational activities, including water-contact sports, or as a source of water supply for drinking or food-processing purposes.

(c) Conditions related to best usage (May through November):

1. The waters will be suitable for agricultural irrigation, livestock watering, and industrial cooling waters. The waters will be usable after special treatment, as may be needed under each particular circumstance, for industrial process water supplies. The waters will also be suitable for other uses for which waters of lower quality will be satisfactory.

2. This category includes watercourses in which natural flow is intermittent, or under certain conditions non-existent, and which may receive treated wastes from existing municipalities and industries. In such instances, recognition is given to the lack of opportunity for mixture of the treated wastes with the receiving stream for purposes of compliance. It is also understood in considering waters for this classification that urban runoff or natural conditions may impact any waters so classified.

(d) Other usage of waters: none recognized.

(e) Specific criteria:

1. Dissolved oxygen (May through November): treated sewage, industrial wastes, or other wastes shall not cause the dissolved oxygen to be less than 3.0 mg/l. In the application of dissolved oxygen criteria referred to above, dissolved oxygen shall be measured at a depth of 5 feet in waters 10 feet or greater in depth; and for those waters less than 10 feet in depth, dissolved oxygen criteria will be applied at mid-depth.

2. Toxic substances and taste-, odor-, and color-producing substances attributable to treated sewage, industrial wastes, and other wastes: only such amounts as will not render the waters unsuitable for agricultural irrigation, livestock watering, industrial cooling, and industrial process water supply purposes; interfere with downstream water uses; or exhibit acute toxicity or chronic toxicity, as demonstrated by effluent toxicity testing or by application of numeric criteria given in rule 335-6-10-.07, to fish and aquatic life, including shrimp and crabs in estuarine or salt waters or the propagation thereof. For the purpose of establishing effluent limitations pursuant to chapter 335-6-6 of the Department's regulations, the minimum 7-day low flow that occurs once in 2 years (7Q<sub>2</sub>) shall be the basis for applying the chronic aquatic life criteria. The use of the 7Q<sub>2</sub> low flow for application of chronic criteria is appropriate based on the historical uses and/or flow characteristics of streams to be considered for this classification.

3. Bacteria: In non-coastal waters, bacteria of the *E. coli* group shall not exceed a geometric mean of 548 colonies/100 ml; nor exceed a maximum of 2,507 colonies/100 ml in any sample. In coastal waters, bacteria of the enterococci group shall not exceed a maximum of 275 colonies/100 ml in any sample. The geometric mean shall be calculated from no less than five samples collected at a given station over a 30-day period at intervals not less than 24 hours.

(7) **AGRICULTURAL AND INDUSTRIAL WATER SUPPLY**

(a) Best usage of waters: agricultural irrigation, livestock watering, industrial cooling and process water supplies, and any other usage, except fishing, bathing, recreational activities, including water-contact sports, or as a source of water supply for drinking or food-processing purposes.

(b) Conditions related to best usage:

(i) The waters, except for natural impurities which may be present therein, will be suitable for agricultural irrigation, livestock watering, industrial cooling waters, and fish survival. The waters will be usable after special treatment, as may be needed under each particular circumstance, for industrial process water supplies. The waters will also be suitable for other uses for which waters of lower quality will be satisfactory.

(ii) This category includes watercourses in which natural flow is intermittent and non-existent during droughts and which may, of necessity, receive treated wastes from existing municipalities and industries, both now and in the future. In such instances, recognition must be given to the lack of

opportunity for mixture of the treated wastes with the receiving stream for purposes of compliance. It is also understood in considering waters for this classification that urban runoff or natural conditions may impact any waters so classified.

(c) Specific criteria:

1. Sewage, industrial wastes, or other wastes: none which are not effectively treated or controlled in accordance with rule 335-6-10-.08.

2. pH: sewage, industrial wastes or other wastes shall not cause the pH to deviate more than one unit from the normal or natural pH, nor be less than 6.0, nor greater than 8.5. For salt waters and estuarine waters to which this classification is assigned, wastes as herein described shall not cause the pH to deviate more than one unit from the normal or natural pH, nor be less than 6.5, nor greater than 8.5.

3. Temperature: the maximum temperature rise above natural temperatures due to the addition of artificial heat shall not exceed 5 °F in streams, lakes, and reservoirs, nor shall the maximum water temperature exceed 90 °F.

4. Dissolved oxygen: sewage, industrial wastes, or other wastes shall not cause the dissolved oxygen to be less than 3.0 mg/l. In the application of dissolved oxygen criteria referred to above, dissolved oxygen shall be measured at a depth of 5 feet in waters 10 feet or greater in depth; and for those waters less than 10 feet in depth, dissolved oxygen criteria will be applied at mid-depth.

5. Color, odor, and taste-producing substances, toxic substances, and other deleterious substances, including chemical compounds attributable to sewage, industrial wastes, and other wastes: only such amounts as will not render the waters unsuitable for agricultural irrigation, livestock watering, industrial cooling, industrial process water supply purposes, and fish survival, nor interfere with downstream water uses. For the purpose of establishing effluent limitations pursuant to chapter 335-6-6 of the Department's regulations, the minimum 7-day low flow that occurs once in 10 years ( $7Q_{10}$ ) shall be the basis for applying the acute aquatic life criteria. The use of the  $7Q_{10}$  low flow for application of acute criteria is appropriate based on the historical uses and/or flow characteristics of streams to be considered for this classification.

6. Bacteria: In non-coastal waters, bacteria of the E. coli group shall not exceed a geometric mean of 700 colonies/100 ml; nor exceed a maximum of 3,200 colonies/100 ml in any sample. In coastal waters, bacteria of the enterococci group shall not exceed a maximum of 500 colonies/100 ml in any sample. The geometric mean shall be calculated from no less than five samples collected at a given station over a 30-day period at intervals not less than 24 hours.

7. Radioactivity: the concentrations of radioactive materials present shall not exceed the requirements of the State Department of Public Health.

8. Turbidity: there shall be no turbidity of other than natural origin that will cause substantial visible contrast with the natural appearance of waters or interfere with any beneficial uses which they serve. Furthermore, in no case shall turbidity exceed 50 Nephelometric units above background. Background will be interpreted as the natural condition of the receiving waters without the influence of man-made or man-induced causes. Turbidity levels caused by natural runoff will be included in establishing background levels.

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