# TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management	
Rule No. 335-6-1101	
Rule Title: The Use Classification System	
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
Does the proposed rule have an economic impact?	NO
If the proposed rule has an economic impact, the proposed rule is required in accordance with subsection (f) of Section 41-22	
**************************************	**********
I certify that the attached proposed rule has been proposed in full come Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to a of the Administrative Procedure Division of the Legislative Reference	all applicable filing requirements
Signature of certifying officer / Muly Ellion	<del>f</del>
Date September 21, 2016	The second of th

# ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT WATER DIVISION

## NOTICE OF INTENDED ACTION

AGENCY NAME:

Alabama Department of Environmental Management

RULE NO. & TITLE:

335-6-11-.01 The Use Classification System (Amend)

INTENDED ACTION:

The Alabama Department of Environmental Management

proposes to amend rule 335-6-11-.01.

#### SUBSTANCE OF PROPOSED ACTION:

The Department proposes to replace the word "streams" with "waterbodies" to clarify that a use classification is not just limited to a stream, to correct grammatical errors, and to revise Perdido-Escambia River Basin to Perdido River Basin and add Escatawpa River Basin to reflect the updated river basin names.

## 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

# 335-6-11-.01 The Use Classification System.

(1) Use classifications utilized by the State of Alabama are as follows:

Outstanding Alabama Water	OAW
Public Water Supply	PWS
Swimming and Other Whole Body Water-Contact Sports	S
Shellfish Harvesting	SH
Fish and Wildlife	F&W
Limited Warmwater Fishery	LWF
Agricultural and Industrial Water Supply	A&I

- (2) Use classifications apply water quality criteria adopted for particular uses based on existing utilization, uses reasonably expected in the future, and those uses not now possible because of correctable pollution but which could be made if the effects of pollution were controlled or eliminated. Of necessity, the assignment of use classifications must take into consideration the physical capability of waters to meet certain uses.
- Those use classifications presently included in the standards are reviewed informally by the Department's staff as the need arises, and the entire standards package, to include the use classifications, receives a formal review at least once every three years. Efforts currently underway through local 201 planning projects will provide additional technical data on certain streams waterbodies in the State, information on treatment alternatives, and applicability of various management techniques, which, when available, will hopefully lead to new decisions regarding use classifications. Of particular interest are those segments which are currently classified for any usage which has an associated degree of quality criteria considered to be less than that applicable to a classification of "Fish and Wildlife." As rapidly as it can be demonstrated that new classifications are feasible and attainable on these segments from an economic and technological viewpoint, based on the information being generated pursuant to water quality studies and the planning efforts previously outlined, such improvement will be proposed. For those segments where such a demonstration cannot be made, use attainability analyses describing in detail the factors preventing attainment of the "Fish and Wildlife" use will be prepared pursuant to federal requirements and updated as new information becomes available.
- (4) Although it is not explicitly stated in the classifications, it should be understood that the use classification of "Shellfish Harvesting" is only applicable in the coastal area and, therefore, is included only in the Mobile River Basin, Escatawpa River Basin, and the Perdido-Escambia River Basin. It should also be noted that with the exception of those segments in the "Public Water Supply" classification, every segment, in addition to being considered acceptable for its designated use, is also considered acceptable for any other use with a less stringent associated criteria.
- (5) Not all waters are included by name in the use classifications since it would be a tremendous administrative burden to list all stream—waterbody

segments in the State. In addition, in virtually every instance where a segment is not included by name, the Department has no information or stream-waterbody data upon which to base a decision relative to the assignment of a particular classification. An effort has been made, however, to include all major stream waterbody segments and all segments whichtat, to the Department's knowledge, are currently recipients of point source discharges. Those segments which are not included by name will be considered to be acceptable for a "Fish and Wildlife" classification unless it can be demonstrated that such a generalization is inappropriate in specific instances.

Author: James E. McIndoe; Chris L. Johnson.

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

**History:** May 5, 1967. **Amended:** June 19, 1967; April 1, 1970; October 16, 1972; September 17, 1973; May 30, 1977; December 19, 1977; February 4, 1981; April 5, 1982; December 11, 1985; March 26, 1986; September 7, 2000; May 27, 2008; April 1, 2014; XXXXXX, 2017.