



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
WATER DIVISION

NOTICE OF INTENDED ACTION

**Agency Name:** Alabama Department of Environmental Management  
**Rule No. & Title:** 335-6-6-.23 General Permits (Amend)  
**Intended Action:** The Alabama Department of Environmental Management proposes to amend rule 335-6-6-.23

**Substance of Proposed Action:**

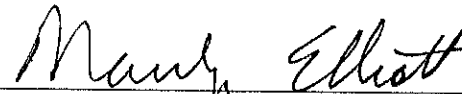
The Department proposes to amend this rule and to make administrative corrections in this rule.

**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



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Lance R. LeFleur  
Director

**335-6-6-.23 General Permits.**

(1) Category. A general permit may be written to regulate:

(a) Storm water discharges or

(b) A category of discharges that all:

1. Involve the same or substantially similar types of discharges;

2. Discharge the same types of pollutants;

3. Require the same effluent limitations or operating conditions;

4. Require the same or similar monitoring; and

5. In the opinion of the Director are more appropriately controlled under a general permit than under individual permits.

(2) Prohibitions.

(a) A discharger, classified as a major discharger by EPA, shall not receive coverage under a general permit. The identity of major dischargers may be obtained from EPA or the Department.

(b) A discharger, not in compliance with Department rules applicable to its wastewater discharges or not in compliance with an individual NPDES permit applicable to the discharge in question, shall not receive coverage under a general permit.

(3) Area. A general permit shall be written to cover a category of discharges described in the permit, within a geographical area. The area shall correspond to existing geographic or political boundaries, such as:

(a) Designated planning areas under Sections 208 and 303 of the CWA;

(b) Sewer districts or sewer authorities;

(c) City, county, or state political boundaries;

(d) State highway systems;

(e) Standard metropolitan statistical areas as defined by the Office of Management and Budget;

(f) Urbanized areas as designated by the Bureau of the Census; or

(g) Any other appropriate division or combination of boundaries.

(4) Applications.

(a) Any interested party may make application to the Director requesting the issuance or modification of a general permit. The Director may deny the application: if he determines that application does not meet the criteria set forth in this rule for the issuance of a general permit; if the application does not contain sufficient information upon which to make a decision; or if he determines that the issuance of a general permit for the discharges addressed by the application is prohibited by this rule or other applicable state or federal laws or rules. If the Director accepts the application, a general permit addressing the discharges described by the petition shall be developed and proposed in accordance with this rule.

(b) The Director may, on his own initiative, develop and propose for issuance a general permit for a category of wastewater dischargers meeting the criteria of this rule.

(5) Provisions and Limitations.

(a) With the exception of those provisions identified in subparagraph 335-6-6-.23(4)(b), the requirements of rules 335-6-6-.02, 335-6-6-.07, 335-6-6-.10, 335-6-6-.11, 335-6-6-.12, 335-6-6-.13, 335-6-6-.14, 335-6-6-.15 and 335-6-6-.16 concerning permit provisions and determination of permit limitations shall apply to general permits. Provisions implementing all applicable requirements of these rules shall be incorporated into each general permit, and permit limitations, determined in accordance with all applicable requirements of these rules, shall be incorporated into each general permit. In addition to the above listed requirements, any requirement of 40 CFR Section ~~§122.28(b) (1994/2016)~~ shall apply to general permits.

(b) The following requirements of rules 335-6-6-.12, 335-6-6-.13, and 335-6-6-.14 shall not apply to general permits:

1. Paragraph 335-6-6-.12(b);
2. Paragraph 335-6-6-.12(f);
3. Subparagraph 335-6-6-.12(l)1.;
4. Paragraph 335-6-6-.12(p);
5. Paragraph 335-6-6-.12(q);
6. Paragraph 335-6-6-.13(b); and
7. Subparagraph 335-6-6-.14(3)(j).

(c) Each general permit shall contain provisions implementing the requirements under paragraphs 335-6-6-.23(14) and (15).

(d) Each general permit may specify the appropriate public notice procedures required to be followed by each discharger prior to the coverage of any discharge under the general permit. Notice by individual dischargers shall not be required in instances where the Department can notice the dischargers with notice of the permit. For instance during renewal of a permit, those dischargers already covered may be noticed with the permit.

(e) The monitoring requirements of each general permit shall be in accordance with the requirements for individual permits referenced by this rule and shall be consistent with the requirements of 40 CFR Sections 122.42, 122.44, and 122.48 (1994).

(6) Compliance Schedules. A general permit may, when appropriate, specify a schedule of compliance leading to compliance with the FWPCA and the AWPCA. General permit compliance schedules shall comply with the requirements of rule 335-6-6-.16 and all dischargers covered under the general permit shall be subject to the same compliance schedule.

(7) Modification, Revocation and Reissuance, and Termination of General Permits, and Termination of Coverage under Permits.

(a) Subject to the public notice procedures of rule 335-6-6-.21, the Director may modify or revoke and reissue any general permit during its term for cause including, but not limited to, the causes listed below:

1. When the Director receives any information that was not available at the time of permit issuance and that would have justified the application of different permit conditions at the time of issuance,

2. When the standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued,

3. Upon failure of the state to notify, as required by Section 402(b)(3) of the FWPCA, another state whose waters may be affected by a discharge,

4. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology based treatment requirements appropriate to the discharge under 40 CFR 125.3(c) (1994),

5. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions,

6. When the permit limitations are found not to be protective of water quality standards, or

7. For any applicable cause set forth in 40 CFR Sections ~~§§~~ 122.61, 122.62, 122.63, and ~~or~~ 122.64 (1994).

(b) Subject to the public notice procedures of rule 335-6-6-.21, the Director may terminate any general permit during its term for any of the causes for modification listed in subparagraph 335-6-6-.23(7)(a).

(c) The Director may terminate coverage of a discharge under a general permit for cause. Cause shall include, but not be limited to: noncompliance with the permit; noncompliance with Department rules; or a finding that the general permit does not control the wastewater discharge sufficiently to protect water quality or comply with treatment based limits applicable to the discharge.

(d) Any person covered by a general permit may apply for termination of coverage by applying for an individual NPDES permit or by submitting a Notice of Termination (NOT), provided the criteria for termination specified in the general permit are met. Beginning December 21, 2020, Notices of Termination submitted pursuant to this rule shall be submitted electronically to the Director in compliance with the relevant requirements of rule 335-3-6-1-.04, with the exception of any period during which the permittee has been granted an electronic reporting waiver for Notices of Termination in accordance with paragraph 335-6-1-.04(6).

(e) Termination of coverage by a general permit shall be processed consistent with the rules of this chapter applicable to individual NPDES permits except a public notice period is not required for termination of coverage requested by the permittee, and a public notice is not required for termination if a public notice for coverage authorized by the Department is not required by the general permit.

(8) When an individual NPDES Permit is issued for a discharge otherwise subject to a general permit, the applicability of the general permit to that discharge is automatically terminated on the effective date of the individual permit.

(9) Issuance of an Individual NPDES Permit to a Person Eligible for Coverage or Covered by a General Permit.

(a) The Director may require any person with any discharges, otherwise eligible for coverage under a general permit, to apply for an individual NPDES Permit for any or all of the discharges at that facility by notifying that person that an application is required. Notification shall consist of a written description of the reason(s) for the decision, appropriate permit application forms and directions, a statement establishing the required date for submission of the application, and a statement informing the person that upon issuance of the individual permit coverage by the general permit for the applicable discharges shall automatically terminate. Reasons for requiring application for an individual permit may be:

1. Noncompliance with the general permit,

2. Noncompliance with Department rules,
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the wastewater being discharged,
4. Effluent guidelines are promulgated for a point source(s) covered by the general permit,
5. A Water Quality Management Plan applicable to the wastewater being discharged under the general permit,
6. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit or either a temporary reduction or permanent reduction or elimination of the authorized discharge is necessary,
7. Standards for sewage sludge use or disposal have been promulgated for the sludge use or disposal practice covered by the general permit,
8. The discharge(s) is a significant contributor of pollutants. In making this decision the Director may consider:
  - (i) The location of the waters with respect to waters of the state,
  - (ii) The size of the discharge,
  - (iii) The quantity and nature of the pollutants discharged to waters of the state, and
9. A determination that the water of the state receiving the discharge is not meeting applicable water quality standards.

~~(b) — Any person covered by a general permit may apply for termination of coverage by applying for an individual NPDES permit.~~

~~(c) — Termination of coverage by a general permit shall be processed consistent with the rules found in this chapter applicable to individual NPDES Permits except a public notice period shall not be required for termination of coverage requested by the permittee, and a public notice shall not be required for termination if a public notice for coverage authorized by the Department is not required by the general permit.~~

(db) Any person may petition the Director for withdrawal of general permit coverage from a discharger. The Director shall consider the information submitted by the petitioner and any other information he may be aware of and may obtain additional information from the discharger and through inspections by Department staff and shall decide if coverage should be withdrawn. The petitioner shall be informed of the Director's decision and shall be provided a summary of the information considered.

(10) Enforcement. Any general permit issued or reissued by the Department is a permit for the purposes of the AWPCA and the FWPCA, and any terms, conditions, or limitations of the permit are enforceable under state and federal law and as described under rule 335-6-6-.18.

(11) Permit Development. When the Department is satisfied that a general permit should be issued it shall develop a draft general permit in accordance with the procedures under rule 335-6-6-.19.

(12) Fact Sheets. A fact sheet shall be prepared for each draft general permit and shall be available to the public upon request. The fact sheet shall include, when applicable:

(a) A brief description of the category(s) of dischargers to be permitted by the general permit;

(b) A description of the geographic area to covered by the general permit; and

(c) The information required under rule 335-6-6-.20 to be included in fact sheets.

(13) Public Notice Requirements. Public notice of the Department's tentative decision to issue a general permit shall be accomplished in accordance with the requirements under rule 335-6-6-.21.

(14) EPA Review. Concurrent with issuance of public notice, the Department shall submit the draft general permit and fact sheet to EPA for review. EPA shall be allowed a review period of 90 days and a general permit shall not be issued over the specific written objection of the EPA.

(15) Notice of Intent.

(a) General permits shall specify the deadlines for submitting notices of intent to be covered and the date(s) when a discharger is authorized to discharge under the permit.

(b) General permits shall specify whether a discharger that has submitted a complete and timely notice of intent to be covered in accordance with the general permit and that is eligible for coverage under the permit, is authorized to discharge, in accordance with the permit either upon receipt of the notice of intent by the Director, after a waiting period specified in the general permit, on a date specified in the general permit, or upon acknowledgment of the notice of intent by the Director.

(c) Discharges other than discharges from publicly owned treatment works, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the Director,



be authorized to discharge under a general permit without submitting a notice of intent where the Director finds that a notice of intent requirement would be inappropriate. In making such a finding, the Director shall consider: the type of discharge; the expected nature of the discharge; the potential for toxic and conventional pollutants in the discharges; the expected volume of the discharges; other means of identifying discharges covered by the permit; and the estimated number of discharges to be covered by the permit. The Director shall provide in the public notice of the general permit the reasons for not requiring a notice of intent.

(d) A notice of intent shall include:

1. A description of the processes generating the wastewater for which coverage is desired, which description shall be in sufficient detail to allow the Department to determine that the wastewater discharge is included in the category permitted by the general permit;

2. The latitude and longitude of the discharge points for each wastewater discharge and the name of the waterbody receiving each wastewater discharge for which coverage under the general permit is desired;

3. A contact person, address and phone number for each location to be covered under the general permit; and

4. Any other information specified by the general permit.

(e) A notice of intent shall be signed by a person meeting the requirements for signatories to permit applications under rule 335-6-6-.09 and the person signing the notice of intent shall make the certification required for submission of documents under rule 335-6-6-.09.

(f) If required by a specific general permit, proof of public notice as required by the permit under which the applicant seeks to discharge must be submitted with the notice of intent.

(g) Beginning December 21, 2020, all Notices of Intent submitted in compliance with this rule shall be submitted electronically to the Department in compliance with the relevant requirements of rule 335-3-6-1-.04, with the exception of any period during which the permittee has been granted an electronic reporting waiver for Notices of Intent in accordance with paragraph 335-6-1-.04(6).

(16) Signatories to Reports. Discharge monitoring reports and any other submissions required by a general permit shall be signed in accordance with the requirements of rule 335-6-6-.09.

(17) Duration of General Permits.

(a) General permits shall not be issued for a term longer than five years unless a longer term is allowed by 40 CFR Part 122 and is approved by

the Director. The term of the permit does not mean that coverage for a discharger is for five years; coverage for a discharger, which begins after the effective date of the permit, shall be determined by the Director or his designee and can be for the remaining term of the general permit.

(b) Should a general permit expire prior to reissuance, the permit shall be extended administratively until the Department can complete reissuance of the permit.

(c) Should a general permit expire and the Director decide not to reissue the permit, the Director shall notify each discharger permitted by the general permit to submit an individual permit application and shall give the discharger at least 90 days to submit the application. The general permit shall be extended until the Department completes the permit decision process for individual NPDES permits for all persons covered under the general permit and who have submitted applications for an individual permit within the time period required by the Director.

(d) Should the Director revoke or terminate a general permit, the Director shall notify each discharger permitted by the general permit to submit an individual permit application and shall give the discharger at least 90 days to submit the application. The effective date of the action shall be the date on which the Department completes the permit decision process for individual NPDES permits for all persons covered under the general permit and who have submitted applications for an individual permit within the time period required by the Director.

**Author:** John Poole, Ed Hughes, Richard Hulcher, Christy Monk.

**Statutory Authority:** Code of Alabama 1975, §§ 22-22-1 to 22-22-14 and §§ 22-22A-1 to 22-22A-16.

**History:** April 29, 1991.

**Amended:** July 12, 1995; August 1, 2002; August 3, 2010; September 29, 2015; XXXX XX, 2017.