ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
WATER DIVISION - WATER QUALITY PROGRAM
ADMINISTRATIVE CODE

CHAPTER 335-6-5
INDIRECT DISCHARGE PERMIT AND PRETREATMENT RULES

TABLE OF CONTENTS

335-6-5-.01	Purpose
335-6-5-.02	Definitions
335-6-5-.03	General Pretreatment Standards And Prohibitions And Local Limits
335-6-5-.04	Requirement For SID Permit
335-6-5-.05	Duties Of Industrial Users
335-6-5-.06	Categorical Pretreatment Standards
335-6-5-.07	Publicly And Privately Owned Treatment Works
335-6-5-.08	Request For Variances From Categorical Pretreatment Standards For Fundamentally Different Factors
335-6-5-.09	Prohibited Discharges
335-6-5-.10	Duration Of Permits
335-6-5-.11	Continuation Of Expiring Permits
335-6-5-.12	Confidentiality Of Information
335-6-5-.13	Application Format And Procedures For New Permits, For Permit Reissuance, And Permit Modification
335-6-5-.14	Signatories To Permit Applications And Reports
335-6-5-.15	Conditions Applicable To SID Permits
335-6-5-.16	Establishing Limitations, Standards, And Other Permit Conditions
335-6-5-.17	Calculating SID Permit Limitations
335-6-5-.18	Schedules Of Compliance
335-6-5-.19	Transfer, Modification, Revocation And Reissuance, And Termination Of Permits
335-6-5-.20	Enforcement
335-6-5-.21	SID Permit Development
335-6-5-.22	Reclassification Of Significant Industrial Users
335-6-5-.23	Requirements For Dental Dischargers

335-6-5-.01 Purpose.

Section 403.10 of the Federal Water Pollution Control Act (FWPCA) provides that a state may administer its own pretreatment program for regulation of discharges of non-domestic wastewater into publicly owned treatment works within its jurisdiction. Such

pretreatment program, however, must be comparable to the National Program. The Alabama Water Pollution Control Act (AWPCA) provides that the Department shall regulate and permit the discharge of sewage and industrial wastes entering a water of the state either directly or indirectly by passing through a publicly or privately owned treatment plant. It is the purpose of this Chapter to establish rules and procedures which will enable the state to administer a pretreatment program for this state and to enforce the provisions of the AWPCA.
Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.02 Definitions.

Whenever used in this Chapter, unless a different meaning clearly appears from the context or unless a different meaning is stated in a definition applicable to only a portion of this Chapter, the following shall mean:

(a) "application" means forms, applicable permit fees, and additional information required by this Chapter to be submitted when applying for a SID Permit.

(b) "average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month. Zero discharge days shall not be included in the number of "daily discharges" measured. When an EPA approved method having a detection limit lower than the permit limitation or when the EPA approved method having the lowest detection limit for a substance is used by the permittee, a value of less than detectable shall be considered zero for purposes of calculating the average monthly discharge of the substance.

(c) "average weekly discharge limitation" means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week (zero discharge days shall not be included in the number of "daily discharges" measured). When an EPA approved method having a detection limit lower than the permit limitation or when the EPA approved method having the lowest detection limit for a substance is used by the permittee, a value of less than detectable shall be considered zero for purposes of calculating the average weekly discharge of the substance.

(d) "baseline report" means information required by 40 CFR Section 403.12(b) (1994) to be submitted by an industrial user subject to a categorical pretreatment standard.

(e) "best management practices plan" ("BMP") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the state." BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material or product storage.

(f) "bypass" means the intentional diversion of waste streams from any portion of an industrial user's wastewater treatment facility.

(g) "categorical industrial user" means any "industrial user" to which a "categorical pretreatment standard" applies.

(h) "categorical pretreatment standard" or "pretreatment standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the FWPCA, which applies to industrial users.

(i) "commencement of construction" means that the owner or operator has:

1. begun, or caused to begin as part of a continuous on-site construction program:

(i) any placement, assembly, or installation of facilities or equipment or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

2. entered into a binding contractual obligation for the purpose of placement, assembly, or installation of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under the paragraph.

(j) "commercial centralized waste treatment facility" or "CWT" means a facility, other than a landfill or incinerator, which

treats or stores aqueous wastes generated by facilities not located on the site of the CWT and which disposes of these wastes by introducing them into a publicly owned treatment works.

(k) "daily discharge" means the discharge of a pollutant measured during any consecutive 24-hour period in accordance with the sample type and analytical methodology specified by the discharge permit.

(l) "Department" means the Alabama Department of Environmental Management, established by the Alabama Environmental Management Act, Code of Ala. 1975, §§22-22A-1 to 22-22A-16.

(m) "Director" means the Director of the "Department" or an authorized representative.

(n) "discharge limitation" means any restriction imposed by the Director on quantities, discharge rates, concentrations or other characteristics of "pollutants" or volumes or flow rates of wastewater which are "discharged" into a "publicly or privately owned treatment works."

(o) "discharge monitoring report" or "(DMR)" means the form approved by the Director to accomplish the reporting requirements of a SID Permit.

(p) "domestic discharger" means a "discharger" which discharges only "domestic wastewater."

(q) "domestic wastewater" means wastewater from residences and other wastewaters of similar composition and strength and does not mean wastewater generated by industrial processes.

(r) "draft permit" means a document indicating the Director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a "SID Permit."

(s) "general prohibitions" means those promulgated restrictions and standards published in 40 CFR Section 403.5 (1994) and applicable to all industrial discharges.

(t) "indirect discharge" or "discharge" means the addition, introduction, leaking, spilling, or emitting of non-domestic pollutants from any source, including but not limited to those regulated under Section 307(b) or (c) of the FWPCA, into a "publicly owned treatment works" or the introduction of non-domestic pollutants into a "privately owned treatment works" by a person other than the operator of the "privately owned treatment works."

(u) "indirect discharger" or "discharger" means a non-domestic discharger who discharges "pollutants" to a "publicly owned

treatment works" or a "privately owned treatment facility" operated by a person other than the indirect discharger.

(v) "industrial user" means a source of "indirect discharge."

(w) "interference" means inhibition or disruption of the treatment processes or operations of a "publicly or privately owned treatment works" which contributes to a violation of any requirement of its "NPDES" permit or causes damage to any part of the collection, treatment, and disposal system; and includes prevention of sewage sludge use or disposal by a "publicly owned treatment works" in accordance with Section 405 of the FWPCA, or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection, Research and Sanctuaries Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the "publicly owned treatment works."

(x) "maximum daily discharge limitation" means the highest allowable "daily discharge."

(y) "municipal wastewater" means any wastewater discharged to a "publicly owned treatment works" and includes domestic and industrial wastewater.

(z) "National Pollutant Discharge Elimination System" or "NPDES" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits for the discharge of pollutants into waters of the state.

(aa) "new discharger" means any "significant indirect discharger", to whom the "Department" has not issued a "SID Permit", or any potential "significant industrial discharger."

(bb) "new source" means:

1. any building, structure, facility, or installation from which there is or may be a discharge of pollutants, for which the "commencement of construction" occurred:

(i) after promulgation of "categorical pretreatment standards" under Section 307(c) of FWPCA which are applicable to such source; or

(ii) after proposal of "categorical pretreatment standards" in accordance with Section 307(c) of the FWPCA which are applicable to such source, but only if the standards are promulgated in accordance with Section 307(c) within 120 days of their proposal.

(cc) "NPDES Permit" means a permit issued to the "privately or publicly owned treatment works" pursuant to Section 402 of the FWPCA.

(dd) "pass through" means that a pollutant(s) introduced into a "publicly or privately owned treatment works" by an "industrial discharger" exits into a "water of the state" in quantities or concentrations which, alone or in conjunction with one or more other discharges, is a cause of a violation of the "NPDES Permit" issued to the treatment works or is a cause of a violation of a state water quality standard or is a cause of an increase in the duration or magnitude of a violation of the permit or water quality standard.

(ee) "permittee" means a person to whom a permit has been issued under this Chapter.

(ff) "person" means any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, other legal entity, business organization or any governmental entity and any successor, representative, responsible corporate officer, agent or agency of the foregoing.

(gg) "pollutant" includes but is not limited to dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water. It does not mean:

1. sewage from vessels or

2. water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well-used either to facilitate production or for disposal purposes is approved by authority of the state and if the Department determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(hh) "pretreatment" means the reduction of the amount of a "pollutant(s)," the elimination of "pollutant(s)," or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a "publicly or privately owned treatment works." The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by Rule 335-6-5-.06.

(ii) "privately owned treatment works" means any device or system which is used to treat wastes from any facility whose operator is not the operator of the treatment works, and which is not a "publicly owned treatment works."

(jj) "publicly owned treatment works" means a treatment works as defined by Section 212 of the FWPCA, which is owned by the state, a municipality, a regional entity composed of two or more municipalities, or another entity created by state or local authority for the purpose of collecting and treating municipal wastewater. This definition does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term also means the municipality as defined in Section 502(4) of the FWPCA, which has jurisdiction over the "indirect discharges" to and the discharges from such a treatment works.

(kk) "Regional Administrator" means the Regional Administrator of the appropriate regional office of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

(ll) "schedule of compliance" means a schedule of remedial measures, included in a permit, including an enforceable sequence of actions or operations leading to compliance with any permit requirement or water quality standard.

(mm) "severe property damage" means substantial physical damage to property, damage to waste treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(nn) "sewage" means water carried human wastes from residences, buildings, industrial establishments or other places, together with such ground, surface, storm or other waters as may be present.

(oo) "significant industrial discharger" or "significant industrial user" means any of the following:

1. All "industrial users" subject to Categorical Pretreatment Standards under 40 CFR 403.6 (1994) and 40 CFR Chapter I, Subchapter N (1994);

2. All "industrial users" that "discharge" an average of 25,000 gallons per day or more of process wastewater (excluding sanitary wastewater, noncontact cooling water, and boiler blowdown) to a "publicly owned treatment works";

3. All "industrial users" that "discharge" an average quantity of process wastewater (excluding sanitary wastewater, noncontact cooling water, and boiler blowdown) that makes up five percent or more of the average dry weather organic or hydraulic capacity of the "publicly owned treatment works";

4. All "industrial users" that "discharge" an average organic loading that makes up five percent or more of the design capacity of the "publicly owned treatment works";

5. All "industrial users" that "discharge" to a "privately owned treatment works"; or

6. Any "industrial user" that is determined by the "Director" to have a reasonable potential to adversely affect the operation of the "publicly owned treatment works" or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6) (1994);

(pp) "sludge" means any solid, semi-solid, or viscous material or other residue resulting from treatment of wastewater or produced as a result of wastewater management;

(qq) "State Indirect Discharge Permit" or "SID Permit" means a permit issued to an "industrial user";

(rr) "submission" when referring to the rendering of reports, applications, or other documents required to be submitted to the Department, means that the complete document(s)is received by the Department;

(ss) "toxic pollutant" means a "pollutant" or combination of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organisms, either directly from the environment or indirectly through food chains, will, on the basis of information available to the Department or Director cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in such organisms or their offspring. This shall include but not be limited to pollutants listed as toxic under Section 307(a)(1) of the FWPCA.

(tt) "trade secret" includes but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound or procedure, as well as production data or compilation of information, financial and marketing data, which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or

compound an article of trade or a service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know of it.

(uu) "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with SID Permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(vv) "waste treatment facility" means any devices or systems used in the storage, treatment, recycling or reclamation of municipal sewage, industrial waste, any pollutant, or other waste, including but not limited to, interceptor sewers, outfall sewers, sewage collection systems; associated pumping power and other equipment and their appurtenances; extensions, improvements, remodeling, additions or alterations thereof. In addition, "waste treatment facility" shall mean any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, industrial waste, pollutant, or other waste which flows into waters of the state, either directly or indirectly by passing through a publicly or privately owned treatment works.

(ww) "waters of the state" means all waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the state, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership or corporation unless such waters are used in interstate commerce.

Author: John Poole
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991. **Amended:** July 12, 1995.

335-6-5-.03 General Pretreatment Standards And Prohibitions And Local Limits.

(1) An industrial user, whether or not the user is subject to other categorical pretreatment standards or any national, state, or local pretreatment requirements, shall not introduce into publicly or privately owned treatment works any pollutant(s) which, alone or in conjunction with a discharge or discharges from other sources, cause pass through or interference or in any other manner adversely impact the operation or performance of the treatment works, to include the method of sludge disposal in use by the publicly or privately owned treatment works.

(2) The following pollutants may not be introduced into a publicly owned treatment works:

(a) pollutants which create a fire or explosion hazard in the publicly owned treatment works, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21 (1994);

(b) pollutants which will cause corrosive structural damage to the treatment works, but in no case discharges with pH lower than 5.0, unless the treatment works are specifically designed to accommodate such discharges;

(c) solid or viscous pollutants in amounts which will cause obstruction to the flow in sewers, or other interference with the operation of the treatment works;

(d) any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge of such volume or strength as to cause interference in the treatment works;

(e) heat in amounts which will inhibit biological activity in the treatment plant resulting in interference but in no case in such quantities that the temperature of the influent, at the treatment plant, exceeds 40° C (104° F) unless the treatment plant is designed to accommodate such heat;

(f) pollutants which result in the presence of toxic gases, vapors, or fumes within the treatment works in a quantity that may cause acute worker health and safety problems;

(g) any trucked or hauled pollutants, except at discharge points designated by the treatment works; and

(h) petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.

(3) The Department shall develop and enforce any specific local limits required to ensure compliance with the requirements of this Rule and, where appropriate, shall include these limits in SID Permits. Ordinance limits developed by publicly owned treatment works, that are based on a technical evaluation, shall be imposed as local limits in SID Permits, provided the publicly owned treatment works submits the limit and technical evaluation to the Department for review and approval and the limit is determined to be necessary to ensure compliance with the Department's Rules.

(a) Local limits shall not be developed for substances that are not present in industrial user discharges to the publicly owned treatment works or that are not limited by a SID Permit issued for discharge to the publicly owned treatment works,

except that local limits necessary to ensure compliance with general pretreatment standards shall be developed.

(b) Local limits may be determined using actual data from analysis of publicly owned treatment plant influent and effluent, from sludge analysis, and the characteristics of the waterbody receiving the publicly owned treatment works NPDES permitted discharge. If actual data is not available, pollutant loadings from all significant industrial discharges and best professional judgment based on literature search and/or EPA published estimates shall be used. When the publicly owned treatment works disposes of treated wastewater using an alternative, such as land application, to discharge to a surface water, local limits determinations shall consider the wastewater quality required by the disposal method when evaluating pass-through.

(c) Local limits shall prevent the creation of sludges at the treatment plant that are not compatible with the treatment works chosen method of sludge disposal and may be developed to produce a sludge compatible with a POTW's long range plan for sludge disposal. Local limits for support of long range sludge disposal plans must be developed by the POTW and submitted in accordance with this paragraph.

(d) Local limits for a substance may be equivalent to the concentration of the substance found in domestic wastewater when necessary to prevent water quality impacts, interference, or sludge problems.

(e) Public notice of the Department's intent to develop local limits shall be published in a newspaper of general circulation in the area served by the treatment works for which the limits are being developed. The notice shall include directions for obtaining a copy of the proposed limits and for commenting on the limits. The notice shall allow at least a 30 day comment period prior to final development of the local limits. All comments received during the notice period shall be considered during development of the final local limits.

(f) Procedure For Submittal Of Local Limits. Any POTW wishing to participate in the initial development of local limits shall notify the Department within 30 days of the effective date of this Rule and shall provide an anticipated schedule leading to the submittal of the limits and technical justification. The notification shall also state what local limits the POTW plans to develop. A POTW may submit requested changes to local limits at any time and shall submit the technical justification concurrent with the requested change.

Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.04 Requirement For SID Permit.

(1) No person shall introduce pollutants, other than domestic wastewater into a privately owned treatment works operated by another person without having first obtained a valid State Indirect Discharge (SID) Permit from the Department.

(2) No significant industrial user shall introduce pollutants into publicly owned treatment works without having first obtained a valid State Indirect Discharge (SID) Permit from the Department.
Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.05 Duties Of Industrial Users.

(1) All industrial users shall comply with the requirements of this Chapter and all prohibitions listed in 40 CFR Section 403.5.

(2) All categorical industrial users shall comply with the provisions of applicable categorical pretreatment standards.

(3) All existing categorical industrial users shall submit to the Department a baseline report containing the information required by 40 CFR Section 403.12 (1994) within 180 days after the effective date of a categorical standard applying to that users process(s) or 180 days after the final decision has been made upon a category determination submittal by the industrial user. New sources shall submit the baseline report as a part of the SID Permit Application.

(4) Any holder of a SID Permit shall comply with all provisions of the SID Permit.

(5) An existing significant industrial user shall apply for reissuance of an expiring SID Permit no later than 180 days prior to the expiration date of the expiring SID Permit.

(6) A new significant industrial user shall apply for a SID Permit at least 180 days prior to the date that commencement of discharge is expected.

(7) An industrial user shall notify the publicly owned treatment works, the Department, and the EPA Region IV Waste Management Division Director of any discharge into a publicly owned treatment works of a substance which is a listed or characteristic waste under Section 3001 of RCRA.

(a) Such notification must include a description of any such wastes discharged, specifying the volume and concentration of such wastes and the type of discharge (continuous, batch, or other), identifying the hazardous constituents contained in the listed wastes and estimating the volume of hazardous wastes expected to be discharged during the following twelve months. The notification must take place within 180 days of the effective date of this Rule. This requirement shall not apply to pollutants already reported under the requirements of a SID Permit.

(b) Dischargers are exempt from these reporting requirements during a calendar month in which they generate no more than 100 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.5(e), (f), (g) and (j) (1994). Generation of more than 100 kilograms of hazardous wastes in any given month requires a one-time notification. Subsequent months during which the industrial user generates more than 100 kilograms of hazardous wastes do not require additional notification, except for acute hazardous wastes.

(c) In the case of new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous wastes or listing any additional hazardous waste, the industrial user must notify of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of the wastes to the degree it has determined to be economically practicable and that it has selected the method of treatment, storage, or disposal currently available which minimizes the present and future threat to human health and the environment.

Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.06 Categorical Pretreatment Standards.

(1) Categorical pretreatment standards, specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced to a publicly owned treatment works by existing or new industrial users in specific industrial subcategories, have been and will be established as separate regulations under the appropriate subpart of 40 CFR Chapter I, Subchapter N (1994). The Department shall require compliance with the requirements of those regulations and shall include the requirements in SID Permits issued to categorical dischargers. Compliance by existing sources shall be attained within three

years of the effective date of the standard or as stated in the standard, whichever is earlier. New sources shall install, have in operating condition and start-up all pollution control equipment required to comply with the standard before beginning to discharge and shall attain compliance with the standard within 90 days of beginning discharge.

(2) Category Determination Request:

(a) Within sixty days after the effective date of a categorical pretreatment standard for a subcategory under which an existing industrial user may be included, the industrial user may request that the Department provide written certification to the effect that the industrial user does or does not fall within that particular subcategory.

(b) New source industrial dischargers and existing industrial dischargers, requesting a category determination because of the addition or alteration of a process, must request a category determination prior to commencing discharge of pollutants from the process(es) included in the request.

(c) Each request shall contain a statement:

1. describing which subcategories might be applicable;

2. citing evidence and reasons why a particular subcategory is applicable and why others are not applicable; and

3. the following certification signed by a person meeting the requirements of Rule 335-6-5-.14.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(d) The Department will notify the industrial user of any incomplete aspects of a request and give the industrial user thirty days (or longer, by written permission of the Department) to complete the request.

(e) When the request is complete, the Director will make a written determination of the applicable subcategory and state the reasons for the determination and shall forward the determination to the EPA Regional Water Management Division Director.

(f) The EPA Water Management Division Director may make a final determination. If the Water Management Division Director does not modify the Director's decision within sixty days after receipt thereof, the Director's decision is final, and shall be sent to the requester.

(g) Where the EPA Water Management Division Director elects to modify the Department's decision, the Water Management Division Director's decision will be final.

(h) If the EPA Water Management Division Director elects to modify the Department's decision, the industrial user may submit a petition to reconsider or contest the decision to the Regional Administrator within thirty days of receipt of the modified decision, in accordance with pertinent EPA regulations (40 C.F.R. Part 403 (1994)). If the Director's decision is final, the industrial user may appeal that decision in accordance with Chapter 335-2-1.

(3) Except where expressly authorized to do so by an applicable categorical pretreatment standard, no industrial user shall ever increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a categorical pretreatment standard.

(4) Calculation of Categorical Pretreatment Standard Permit Limits.

(a) The Department may convert mass limits based on units of production to concentration units and may use the concentration limits as SID Permit limits. Mass limits will be converted to concentration units using a reasonable measure of the industrial user's long-term average daily flow, such as the average daily flow rate during a representative year or for new dischargers an engineering estimate of the average flow may be used. When a concentration limit developed from a categorical standard is applied, the flow shall be limited accordingly.

(b) The Department shall calculate mass limits by using a reasonable measure of the industrial user's actual long-term daily production, such as the average daily production for a representative year.

(c) The same flow or production figures shall be used to calculate daily and average permit limitations.

(d) Combined wastestream limits shall be calculated in accordance with the methods described in 40 CFR Section 403.6 (1994).

Author: John Poole
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.07 Publicly And Privately Owned Treatment Works.

(1) Control Of Industrial Users by Publicly Owned Treatment Works.

(a) The Department shall not process a SID Permit Application nor issue a SID Permit to a new discharger or a discharger that is requesting an increase in permit limits for any pollutant until the publicly owned treatment works has provided written approval of the connection.

(b) A publicly owned treatment works may designate any portion of its unused capacity as not available for industrial users by submitting such designation in writing to the Department. SID Permit limits will be determined on the basis of the capacity remaining after subtracting the sum of the reserved capacity and that capacity already in use from the design capacity of the treatment works. This reservation of capacity shall apply to pollutants regulated by local limits as well as to traditional substances such as organic loading, flow, ammonia, and suspended solids.

(c) If requested by the POTW the Department will require the submittal of a copy of any document or report, that is required to be submitted to the Department, to the POTW. If requested, all notifications required by the permit shall be required to made to the POTW. The POTW may make a one time request applicable to all permits or make individual requests during review of draft permits.

(d) Publicly owned treatment works shall report all instances of pass through or interference caused by or believed to be caused by an industrial user to the Department as soon as possible and no later than 24 hours after learning of a water quality standard violation that was or may have been caused by pass through or interference caused by an industrial user.

(e) A publicly owned treatment works may submit a written notification reducing or deleting the capacity available to a permitted industrial user. Such notification shall be signed by a representative of the publicly owned treatment works who meets the requirements of Rule 335-6-5-.07 335-6-5-.14 as an acceptable signatory to its NPDES permit application. The Department shall keep the notification on file and will use

the modified capacity to develop any subsequent draft SID Permit.

(f) Publicly owned treatment works may pass ordinances, adopt policies, assess surcharges and regulate industrial users to the extent allowed by law. Regulatory and other requirements of the publicly owned treatment works may be more stringent than those of the Department, however the Department will enforce only requirements of the AWPCA and EPA and rules implementing the requirements of the AWPCA and EPA.

(2) Publicly owned treatment works may participate in the surveillance and monitoring functions of the pretreatment program. Copies of all inspection reports to include sampling results that are performed by the treatment works shall be submitted to the Department.

(3) Prior to acceptance of an indirect discharge, a privately owned treatment system shall apply for a modification to its NPDES Permit identifying the additional source of wastewater. The Department shall enforce limits of SID Permits issued to industrial users of privately owned treatment systems, but noncompliance by a user with its SID Permit shall not constitute a defense for violation by the privately owned treatment works of its NPDES Permit.
Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.08 Request For Variances From Categorical Pretreatment Standards For Fundamentally Different Factors.

(1) Request for variances from categorical pretreatment standards for fundamentally different factors shall be prepared in accordance with the requirements under 40 CFR Section 403.13 (1994).

(2) The request for a variance shall be submitted to the Director for action. The Director may determine that fundamentally different factors do not exist and deny the request. If the Director determines that fundamentally factors exist, he shall forward the request with a recommendation that the request be approved to the Administrator.

(3) The Administrator shall deny or approve the request. If the request is approved, the Administrator shall develop alternate pretreatment standards applicable to the requester discharge.

(4) The Administrator's decision may be contested in accordance with the procedure described in 40 CFR 403.13 (1994).

(5) The Director's decision to deny may be appealed in accordance with Chapter 355.2.1 of the Department's Rules.
Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.09 Prohibited Discharges.

A SID Permit shall not be issued to a person under the following circumstances:

(1) the industrial discharge contains a radiological, chemical or biological warfare agent or a high-level radioactive waste;

(2) the publicly or privately owned treatment works does not provide written agreement to accept the industrial discharge;

(3) when the imposition of permit conditions cannot reasonably ensure compliance with the general or categorical pretreatment standards applicable to the industrial discharge;

(4) for a discharge which otherwise does not comply with the AWPCA or the FWPCA; or

(5) when hydraulic or organic treatment works capacity is insufficient to accommodate the discharge.
Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.10 Duration Of Permits.

(1) A SID Permit issued pursuant to the AWPCA and this Chapter shall have a fixed term not to exceed five years. A person who wishes to continue to discharge beyond the term of such permit shall apply for reissuance of a SID Permit pursuant to Rule 335-6-5-.13.

(2) A SID Permit issued for a "new discharger" or "new source" shall expire eighteen months after issuance if "construction" has not begun during that eighteen month period.

(3) That portion of a SID Permit authorizing the discharge of increased quantities of pollutants to accommodate the modification

of an existing facility shall expire eighteen months after issuance if "construction" of the modification has not begun within eighteen months after reissuance of the SID Permit or modification of the SID Permit to allow the discharge of increased quantities of pollutants.
Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.11 Continuation Of Expiring Permits.

The terms and conditions of an expiring SID Permit are automatically extended pending issuance of a new SID Permit if the permittee has submitted a timely and complete application for reissuance of the SID Permit and the delay in permit issuance has not been caused by the actions of the permittee. An application that is received by the Department less than 180 days prior to the expiration date of the existing SID Permit is not timely and, if the SID Permit is not reissued prior to expiration, the applicant shall not have a valid permit until such time as the permit is reissued.
Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.12 Confidentiality Of Information.

(1) Information required by this Chapter to be submitted as a part of a SID Permit application may not be claimed as confidential. This includes information submitted on the approved application forms themselves and any attachments used to supply information required by the forms. Claims of confidentiality for the following information will be denied:

(a) the name and address of any permit applicant or permittee;

(b) information required to develop the permit, permits, and effluent data;

(c) baseline reports;

(d) category determination request; and

(e) requests for variances from categorical pretreatment standards.

(2) With the exception of the information specified in paragraph 335-6-5-.12(1) above, all claims of confidentiality shall be handled in accordance with Rule 335-1-1-.06.

(3) Requests for confidentiality should be submitted with the material for which confidential treatment is desired and if possible the confidential material should be separated from the rest of the submittal. A request for confidentiality received more than 90 days after the Department has received the material shall be denied.

(4) A request for confidenitality shall include:

(a) a showing that making the information public will divulge unique methods, sales figures or processes, or that the divulgence of the information will otherwise adversely affect the competitive position of the requester.

(b) a showing of statutory authority such as would empower the Department to hold such information confidenital.

Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.13 Application Format And Procedures For New Permits, For Permit Reissuance, And Permit Modification.

(1) Applications for SID Permits shall be made in duplicate, shall be made using forms designated by the Director, shall be submitted to the Department and a copy of the application shall be submitted to the POTW, and shall consist of the following:

(a) type of business entity, whether corporation, general or limited partnership, sole proprietorship or other;

(b) if applicable, name of applicant's parent corporation or subsidiary corporations;

(c) if a corporation, location of incorporation;

(d) a listing of corporate officers and their names and addresses; and the name and address of the agent designated by the corporation for purposes of service. If a partnership, the names and addresses of the general partners and, if a proprietorship, the name and address of the proprietor;

(e) permit numbers and other identification of any other state environmental permits and if applicable air permits issued by approved local programs presently held by the applicant or its

parent corporation or subsidiary corporations within the state;

(f) identification of administrative complaints, notices of violation, directives, or administrative orders, or litigation concerning environmental compliance, if any, against the applicant, its parent corporation or subsidiary corporations within the state;

(g) if the discharge is to be from a new or modified process, a new facility or new waste treatment facility, the Department may require the submittal of a preliminary engineering report and/or preliminary plans and specifications prior to permitting or the Department may elect to require one or more of these documents prior to discharge or the Department may waive the requirement for one or all of these documents;

(h) a Best Management Practices (BMP) plan if required by the Director prior to permitting. BMP plans shall be developed in accordance with good engineering practices and may be required to:

1. be documented in narrative form and shall include any necessary plot plans, drawings or maps;

2. examine each facility component or system with respect to its potential for causing a release of significant amounts of pollutants into a waters of the state or a publicly or privately owned treatment works due to equipment failure, improper operation, natural phenomena such as rain, freezing temperatures, etc.;

3. include a prediction of the direction, rate of flow and total quantity of pollutants which could be discharged from the facility as a result of equipment failure, natural phenomena or other circumstances;

4. establish best management practices addressing each system capable of causing a release of significant amounts of pollutants into waters of the state or into a publicly or privately owned treatment works;

5. reflect applicable requirements for Spill Prevention Control and Countermeasure (SPCC) plans under Section 311 of the FWPCA and 40 CFR Part 151 (1994), and may incorporate such plans into the BMP plan by reference;

6. assure the proper management of solid and hazardous waste; and

7. address materials storage areas, process and material handling areas, loading and unloading areas, plant site runoff, and sludge and waste disposal areas and include

statements of policy, employee training, inspections, preventative maintenance; and housekeeping;

8. provide impervious liners, dikes, or other structures sufficient to prevent the discharge of a pollutant to groundwater.

(j) a description of the wastewater to be discharged including chemical analysis, flow rates, volumes, and any other characteristics required by the Director; and

(k) all information required by the Department's SID Permit application forms.

(2) The Department may require that an application for a SID Permit provide additional reports, specifications, plans, quantitative data, bioassays, specific or general influent and effluent studies at the publicly or privately owned treatment plant, or other information reasonably required to assess the discharges of the facility and the potential impact of the discharges on the publicly or privately owned treatment works and to determine whether to issue a SID Permit.

(3) Signatory requirements for permit applications shall comply with the requirements of Rule 335-6-5-.14.

(4) Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this section for a period of at least 3 years from the date the application is signed or if the applicant is involved in litigation with the Department until such time that the litigation is resolved.

(5) Any application which is incomplete or otherwise deficient shall not be processed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency and shall not constitute compliance with the requirements under Rule 335-6-5-.10 or paragraphs 335-6-5-.05(5) and 335-6-5-.13(6), except that a request for additional information not required to be submitted with the application shall not render initial application incomplete unless the information is not submitted in accordance with the submittal date required by the request for additional information.

(6) Applications for new sources, new dischargers, and for permit modifications shall be submitted at least 180 days prior to the applicant's desired date for commencement of the new discharge and for permit reissuance at least 180 days prior to expiration of the current permit.

(7) Applications shall include baseline reports when applicable to the proposed industrial discharge.

(8) Applications for permit reissuance may reference information already submitted to the Department and state that such information is unchanged. If the information is present in the Department file it will be made a part of the application. The Department will notify the applicant of any information that could not be located and the application shall not be complete until this information is submitted to the Department by the applicant.

(9) SID Permit applications submitted for industrial discharges to privately owned treatment works may be required to provide information not identified in this Rule. Submittal of information required by this Rule that is not required to determine permit limits for the SID Permit for an industrial discharge to a privately owned treatment works may be waived by the Director. The applicant should determine the application requirements by consultation with the Department prior to submittal of the application.

(10) Applications for modification of a SID Permit are required to contain only that information necessary to describe the changed conditions or planned changes that are the reason for the application, except the Director may request any other information required to make a decision concerning the application.

(11) The permit writer shall determine if a permit application is complete as defined by this rule and if all the information necessary for determining permit conditions has been submitted. If additional information is required, the permit writer shall request the information from the applicant in writing and failure to respond by the applicant shall be grounds for denial of the permit application.
Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.14 Signatories To Permit Applications And Reports.

(1) The application for a SID Permit, a request for variance from categorical pretreatment standards, and a category determination request shall be signed by a responsible official, as indicated below:

(a) in the case of a corporation, by a principal executive officer of at least the level of vice president;

(b) in the case of a partnership, by a general partner;

(c) in the case of a sole proprietorship, by the proprietor; or

(d) in the case of a municipal, state, federal, or other public entity by either a principal executive officer, or ranking elected official.

(2) All reports required by permits and other information requested by the Department shall be signed by a person described under paragraph 335-6-5-.14(1) or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(a) the authorization is made in writing by a person described in paragraph 335-6-5-.14(1);

(b) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and

(c) the written authorization is submitted to the Department.

(3) If an authorization under paragraph 335-5-6-.14(2) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of said paragraph must be submitted to the Department prior to or together with any reports or information signed by the newly authorized representative.

(4) Any person signing a document under this Rule shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(5) Electronic Reporting. If documents described in this chapter are required to be submitted electronically by this chapter or rule 335-6-1-.04, any person providing the electronic signature for such documents shall meet all relevant requirements of this rule and shall ensure that all of the relevant requirements of rule 335-6-1-.04 are met for that submission.
Author: John Poole, Christy Monk
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991. **Amended:** Filed December 20, 2016; effective February 3, 2017.

335-6-5-.15 Conditions Applicable To SID Permits.

The following requirements apply to SID Permits issued to significant industrial dischargers. Provisions implementing these requirements shall be incorporated into each permit.

(1) Duty to comply with a SID Permit.

(a) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the AWPCA and the FWPCA and is grounds for enforcement action, for permit termination, revocation and re-issuance, suspension, modification; or denial of a permit renewal application.

(b) The permittee shall comply with applicable pretreatment categorical and general standards or prohibitions established under the FWPCA within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

(c) Any person who violates a permit condition is subject to a civil penalty as authorized by Code of Ala. 1975, §22-22A-5(18) (1987 Cum. Supp.) and/or a criminal penalty as authorized by the AWPCA.

(2) If the permittee wishes to continue a discharge regulated by the permit after the expiration date of that permit, the permittee must apply for re-issuance of the permit at least 180 days prior to its expiration and, except as provided in Rule 335-6-5-.11, must obtain a new permit prior to the expiration of the existing permit. If the permittee does not desire to continue the discharge of wastewater allowed by an expiring permit, the permittee shall notify the Department at least 180 days prior to expiration of the permit of the permittee's intention not to request reissuance of the permit.

(3) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce production or other activities in order to maintain compliance with the conditions of the permit.

(4) The permittee shall take all reasonable steps to minimize or prevent any violation of the permit or to minimize or prevent any adverse impact of any permit violation.

(5) The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to

achieve compliance with the conditions of the permit. Proper operation and maintenance include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities only when necessary to achieve compliance with the conditions of the permit.

(6) The permit may be modified, revoked and re-issued, suspended, or terminated for cause. The filing of a request by a permittee for a permit modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(7) The permit does not convey any property rights of any sort or any exclusive privilege.

(8) The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and re-issuing, suspending, or terminating the permit or to determine compliance with the permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by the permit.

(9) The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:

(a) enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

(b) have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(d) sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the AWPCA, any substances or parameters at any location.

(10) Monitoring and records keeping requirements.

(a) All permits shall specify:

1. requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

2. required monitoring, including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring; and

3. applicable reporting requirements based upon the impact of the regulated activity.

(b) To assure compliance with permit limitations, all permits may specify requirements to monitor:

1. the mass and/or other measurement for each pollutant limited in the permit;

2. the volume of effluent discharged from each outfall;

3. whole effluent toxicity determinations;

4. other measurements as appropriate; including pollutants in internal waste streams, pollutants in intake water for net limitations, pollutants subject to notification requirements, frequency, and rate of discharge; and

5. to determine the impact on the treatment works, any of the preceding measurements of influent and effluent from the treatment works.

(c) Samples and measurements taken for the purpose of monitoring shall be in accordance with the terms of the SID Permit.

(d) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the above reports or the application for this permit, for a period of at least three years from the date of the sample measurement, report or application. This period may be extended by request of the Director at any time. If litigation or other enforcement action, under the AWPCA and/or the FWPCA, is ongoing which involves any of the above records, the records shall be kept until the litigation is resolved.

(e) Records of monitoring information shall include:

1. the date, exact place, and time of sampling or measurements;

2. the individual(s) who performed the sampling or measurements;

3. the date(s) analyses were performed;

4. the individual(s) who performed the analyses or under whose direct supervision the analyses were performed;

5. the analytical techniques or methods used; and

6. the results of such analyses.

(f) All records required to be kept for a period of three years shall be kept at the permitted facility or an alternate location approved by the Department in writing and shall be available for inspection.

(g) Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136 (1994), unless other test procedures have been approved by the Director or specified in the permit. Upon the establishment of a program for certifying testing laboratories which perform wastewater analyses, only a laboratory certified by the state may be used for contracting wastewater analyses used for SID Permit reporting.

(h) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained or performed under the permit shall, upon conviction, be subject to penalties as provided by the AWPCA.

(i) If sampling performed by any permittee results in a permit violation, the permittee shall repeat the sampling and analysis within 24 hours after becoming aware of the violation and shall submit the results to the Department with the discharge monitoring report for the period in which the violation occurred. If the permit requires daily sampling for the parameter found to be in noncompliance or if the parameter has been sampled for and tested again before the permittee becomes aware of the violation, this requirement shall not apply.

(11) Signatory Requirements. All applications, reports, or information submitted to the Director shall be signed and certified according to the requirements under Rule 335-6-5-.14.

(12) Reporting Requirements.

(a) The permittee shall apply for a permit modification at least 180 days in advance of any planned physical alterations or additions to a facility. Application is required only when the alteration or addition could result in the discharge of additional pollutants or increase the quantity of pollutants discharged or when the alteration or additions would subject the permittee to the requirements of a categorical pretreatment standard. This notification applies to pollutants

that are or are not subject to discharge limitations in the permit.

(b) The permittee shall give advance notice to the Director of any planned changes in or other circumstances regarding a facility which may result in noncompliance with permit requirements.

(c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished as provided by applicable state and federal law.

(d) The permit is not transferable to any person except by modification or revocation and re-issuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the AWPCA or FWPCA. The Director may require the submittal of a complete permit application by the new operator and may issue a new permit or the Director may, in the case of a change in operator where no significant change in operations has occurred that would affect compliance with the SID Permit, where no additional discharges would be added that would require coverage by an SID Permit and where no additional requirements under the AWPCA or FWPCA are necessary, accomplish transfer of the SID Permit by the following procedure:

1. The current permittee and the prospective permittee shall apply for a transfer of the permit at least thirty days in advance of the change in operator.

2. This application shall include a written agreement between the existing and new permittees containing the specific date for transfer of permit responsibilities, coverage and liability. This application shall be signed by a representative of both the existing and new permittee, both representatives shall meet the requirements of a signatory to permit applications set forth in Rule 335-6-5-.14 and shall be accompanied by the appropriate fee required under Chapter 335-1-6.

(e) Discharge monitoring shall be required by all SID Permits in accordance with the following requirements.

1. Monitoring results shall be summarized for each month on a Discharge Monitoring Report (DMR). The DMR shall be submitted so that the DMR is received by the Director no later than the twenty-eighth day of the month following the reporting period specified in the permit, unless otherwise expressed by the Director. DMRs shall be submitted electronically by the permittee to the Director

in compliance with rules 335-6-1-.04 and 335-6-5-.14, with the exception of any period during which the permittee has been granted an electronic reporting waiver for such reports in accordance with paragraph 335-6-1-.04(6).

2. Monitoring reports shall be submitted with a frequency dependent on the nature and effect of the discharge, but in no case less than once each six months, and as required by the SID Permit.

3. If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 (1994) or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean (zero discharge days shall not be used in these calculations) unless otherwise specified by the Director in the permit. When monitoring is in accordance with permit requirements, a less than detectable result shall be considered a zero when calculating averages.

5. The permittee shall be required to monitor for all parameters limited by the permit at least once each six months and report the results of all required monitoring at least once each six months.

(f) Noncompliance reporting shall be required by the SID Permit in accordance with the following requirements.

1. Twenty-four hour reporting. The permittee shall report to the Director within 24 hours of becoming aware of any noncompliance which has caused interference or pass through or an unpermitted direct or indirect discharge to a water of the state and shall follow up the oral report with a written submission to the Director no later than five days after becoming aware of the unpermitted discharge, interference, or pass through.

2. The permittee shall report all instances of noncompliance not reported under the preceding subparagraph, at the time monitoring reports are submitted.

3. Written noncompliance reports shall include the following information:

(i) description of the noncompliance and its cause;

(ii) period of noncompliance; including exact dates and times, or, if not corrected, the anticipated time it is expected to continue;

(iii) description of the steps taken and/or being taken to reduce or eliminate the noncompliance and to prevent its recurrence.

4. Within the next 30 days after the permittee becomes aware of the exceedance of a permit limit for any parameter, the permittee shall sample and test for this parameter and submit the results of the testing to the Department. If the permit monitoring frequency requires the monitoring of the parameter more often than once every 30 days this requirement is satisfied and additional sampling is not required.

(g) Bypass.

1. Bypass Not Exceeding Limitations. The permittee may allow any bypass to occur which does not cause permit limitations, categorical pretreatment standards, nor general pretreatment standards to be violated or exceeded but only if it also is necessary for essential maintenance to assure efficient operation of the waste treatment facility. The permittee shall monitor the bypassed wastewater at least daily and at a frequency sufficient to prove compliance with permit discharge limitations and shall include the results of all such monitoring in the DMR submitted for the period(s) of bypass.

2. Notice.

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least ten days before the date of the bypass.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in subparagraph 335-6-5-.15(12)(f).

3. Prohibition of bypass.

(i) Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:

(I) bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(II) there were no feasible alternatives to the bypass, such as the use of auxiliary waste treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(III) the permittee submitted notices as required under subparagraph 335-6-5-.15(g)2.(i) and the bypass was approved by the Director.

(ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the conditions listed above in subparagraph 335-6-5-.15(g)3.

(13) The SID Permit shall contain the following upset requirements:

(a) An upset constitutes an affirmative defense to an action brought for noncompliance with permit limitations if the requirements of subparagraph 335-6-6-.12(n)2. are met.

(b) Conditions Necessary for Demonstration of an Upset. A permittee who wishes to establish the affirmative defense of an upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) an upset occurred and that the permittee can identify the specific cause(s) of the upset;

(ii) the wastewater treatment facility was at the time being properly operated;

(iii) the permittee submitted notice of the noncompliance caused by the upset as required under 335-6-5-.15(12)(f); and

(iv) the permittee complied with any remedial measures required under paragraph 335-6-5-.15(4).

(c) In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

(14) New, reissued, modified or revoked and reissued SID Permits shall incorporate all applicable requirements of this Chapter pertaining to SID Permits.

(15) A SID Permit issued for a "new discharger" or "new source" shall expire eighteen months after issuance if "construction" has not begun during the eighteen month period.

(16) That portion of a SID Permit authorizing the discharge of increased quantities of pollutants to accommodate the modification of an existing facility shall expire if "construction" of the modification has not begun within eighteen months after issuance of the SID Permit or modification of the SID Permit to allow the discharge of increased quantities of pollutants.

(17) The SID Permit shall require the permittee to make notification of hazardous wastes discharges in accordance with Rule 335-6-5-.05(7).

(18) The SID Permit shall require categorical dischargers to submit baseline reports in accordance with Rule 335-6-5-.05(3).

(19) The SID Permit shall specify the physical location of the sampling point(s) to be used when performing discharge monitoring.

(20) The SID Permit shall require the permittee to notify the publicly or privately owned treatment works and the Department of any slug type discharge that may cause interference with the treatment works. Such notification shall be made to the treatment works immediately after the permittee becomes aware of the event and to the Department during the first normal business day after becoming aware of the event. The permittee shall coordinate with the operator of the treatment works and shall develop a notification procedure that is acceptable to the operator. The permit shall also provide for the establishment of a formal slug load control program if determined by the Director to be required to prevent pass through or interference.

(21) The SID Permit shall require the permittee to report on compliance with any categorical pretreatment standard applicable to the permitted discharge within 90 days following the final compliance date for the applicable standard. The report shall contain the information required by 40 CFR 403.12(d)(1994).

(22) The SID Permit shall require the permittee to comply with the requirements of any categorical pretreatment standard not later than three years after its effective date, unless another compliance date is specified by the standard.

(23) The SID Permit shall require the permittee to provide spill prevention, control and/or management for any stored pollutant(s) that may, if spilled, be reasonably expected to enter a water of the state or the collection system for a publicly or privately owned treatment works. Any containment system used for spill control and management shall be constructed of materials compatible with the substance(s) stored and of materials which shall prevent the pollution of groundwater and shall be capable of

retaining 110 percent of the volume of the largest container of pollutants for which the containment system is provided.
Author: John Poole, Christy Monk
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991. **Amended:** Filed December 20, 2016; effective February 3, 2017.

335-6-5-.16 Establishing Limitations, Standards, And Other Permit Conditions.

(1) In addition to permit conditions required under other rules, the Director shall establish permit conditions, as required on a case-by-case basis, to provide for and ensure compliance with all applicable requirements. An applicable requirement is a state statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit. An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit.

(2) All applicable requirements shall be incorporated into each SID Permit.

(3) Permit limitations based on applicable categorical pretreatment standards and general pretreatment standards shall be included in each SID Permit, this requirement is not applicable to SID Permits issued for indirect discharge to a privately owned treatment works.

(4) A reopener clause that allows permit modification or permit revocation and reissuance to include the requirements of any applicable categorical standard that is promulgated under the FWPCA after the permit is issued shall be included in each SID Permit, this requirement is not applicable to SID Permits issued for indirect discharge to a privately owned treatment works.

(5) A reopener clause that allows permit modification or permit revocation and reissuance to include addition of more stringent limits to prevent interference or pass-through, when the discharge is determined to cause pass through or interference and existing permit limits are not sufficient to prevent pass-through or interference shall be included in each SID Permit.

(6) Where required, SID Permits shall contain permit limits based on local limits developed to prevent pass-through, sludge disposal problems, and interference.

(7) To ensure compliance with permit limitations, the SID Permit may include requirements to monitor:

(a) the mass, concentration, or other measurement specified in the permit, for each pollutant limited in the permit;

(b) the volume of effluent discharged from each outfall; and

(c) other measurements as appropriate; including pollutants in internal waste streams; pollutants in intake water for net limitations; frequency, rate of discharge, etc., for noncontinuous discharges; and pollutants subject to notification requirements; and

(8) The SID Permit shall require monitoring to be performed according to test procedures approved under 40 CFR Part 136 (1994) for the analyses of pollutants having approved methods under that part, and according to a test procedure specified in the permit or approved by the Director for pollutants with no approved methods, or according to a test procedure specified in the permit for alternate test methods.

(9) When more than one approved test method exists for a substance limited in the SID Permit, the SID Permit shall require the use of a method having a detection limit below the permit limit for the substance or, when no method has a detection limit as low as the permit limit, the SID Permit shall require the use of a method having the lowest detection limit.

(10) The SID Permit shall require Best Management Practices to control or abate the discharge of pollutants when the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the FWPCA and the AWPCA.

(11) A SID Permit issued to a commercial aqueous off-site waste treater shall be based upon a best professional judgment determination of best available technology economically achievable or local limits required to prevent pass-through or interference, whichever limit is most stringent, this requirement is not applicable to SID Permits issued for indirect discharge to a privately owned treatment works.

(12) A SID Permit limit shall be the most stringent of the limits required to satisfy categorical pretreatment standards, general pretreatment standards, or local limits.

Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.17 Calculating SID Permit Limitations.

(1) SID Permit discharge limitations, standards and prohibitions shall be established for each discharge point from the facility, except where limitations on internal waste streams are more appropriately used.

(2) General pretreatment standards shall be included in all SID Permits.

(3) Where applicable, SID Permit limits shall be calculated using categorical pretreatment standards. Such limits shall be calculated using the following methods:

(a) When the limit is production based, a reasonable measure of the applicant's long term daily production, such as the average daily production during a representative year, shall be used to calculate the permit limits. Where daily and average maximum permit limits are calculated, averages from the same production period will be used to calculate both limits.

(b) When calculating equivalent concentration or mass limits, an average daily flow based upon a reasonable measure of the applicant's actual long-term flow rate, such as the average daily flow rate during a representative year, shall be used to calculate limits.

(c) When wastewater regulated under a categorical pretreatment standard is mixed with another wastewater prior to treatment an alternative limit shall be calculated in accordance with the method provided under 40 CFR Section 403.6(e) (1994).

(d) When requested by the applicant, the categorical pretreatment standard limit may be adjusted to reflect the presence of pollutants in the applicant's intake water. Adjustments shall be calculated and applied in accordance with the method provided under 40 CFR Section 403.15 (1994). The applicant shall submit proof that the background is not metals leaching from the applicants plumbing and such proof shall consist of sampling results of water taken from as near the water meter as possible and not after contact with the applicant's plumbing.

(e) When an industrial user, to which a categorical pretreatment standard applies, uses a combination of disposal methods including discharge to a publicly owned treatment works, production based limits calculated from the standard shall be adjusted by multiplying the limit by the ratio of the

quantity of wastewater discharged to the publicly owned treatment works to the quantity of wastewater generated.

(4) Where required to prevent violation of general pretreatment standards or to correct existing violations of general pretreatment standards, SID Permit limits based on local limits shall be calculated. Local limits may be determined using actual data from analysis of publicly owned treatment plant influent and effluent, from sludge analysis, and the characteristics of the waterbody receiving the publicly owned treatment works NPDES permitted discharge. If actual data is not available, pollutant loadings from all significant industrial discharges and best professional judgment based on literature search and/or EPA published estimates shall be used. When the publicly owned treatment works disposes of treated wastewater using an alternative, such as land application, to discharge to a surface water, local limits determinations shall consider the wastewater quality required by the disposal method when evaluating pass-through. The sources of information identified above are not inclusive and any other reliable information may be considered when developing local limits.

(5) SID Permit limitations developed for permits issued to industrial users of privately owned treatment works shall be based on the quantity of wastewater and wastewater characteristics that the privately owned treatment works agrees to accept, except that a permit to discharge wastewater that is known not to be treatable to the degree necessary to comply with the treatment works NPDES Permit shall not be issued.
Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.18 Schedules Of Compliance.

The permit may, when appropriate, specify a schedule of compliance leading to compliance with the FWPCA and the AWPCA.

(a) Any schedules of compliance shall require compliance as soon as possible, but not later than the applicable statutory deadline under the FWPCA.

(b) If a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement in accordance with the following:

1. the time between interim dates shall not exceed one year;

2. dates for compliance may be established, where applicable, as follows:

(i) submission of pollution abatement program and preliminary plans;

(ii) submission of final plans, specification, and drawings;

(iii) initiation of construction;

(iv) attainment of operational status; and

(v) attainment of compliance with permit limitations;

3. Reporting.

(i) The permit shall be written to require that no later than fourteen days following each interim date, the final date of compliance, or other period which the Director determines, the permittee shall notify the Director in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports.

(ii) The first SID Permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For dischargers that have ceased discharge for an extended period and wish to recommence discharge, a schedule of compliance shall be available only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before recommencement of discharge.

Author: John Poole
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.19 Transfer, Modification, Revocation And Reissuance, And Termination Of Permits.

Subject to appeal rights of the permittee, the Department may transfer, modify, or revoke and reissue any SID Permit during its term for cause, including but not limited to, the causes listed in this Rule. All applicable fees required by Chapter 335-1-6 shall be paid prior to permit transfer, modification, or revocation and

reissuance, when the permit action is at the request of the permittee.

(a) Permit Transfers. A permit may be transferred from the permittee to a new operator only if the permit has been modified, revoked and reissued, or a minor modification made to identify the new permittee:

1. If there is to be no change in the operation of the facility which would affect the permittee's ability to comply with the permit and if there are to be no new, different, altered or increased discharges from the facility, the permit may be transferred by modification, revocation and reissuance, or by a minor modification of the permit, provided that the reporting requirements of subparagraph 335-6-5-.15(12)(d) are complied with.

2. If there are to be changes in the facility which would result in new, different, altered, or increased discharges from the facility, the transfer of ownership or operational obligations may be accomplished by complying with the reporting requirements of subparagraph 335-6-5-.15(12)(b), but no new, different, altered, or increased discharges may commence until a new application and, if required by the Department, an engineering report describing such discharges have been submitted to the Department and the permit has been revoked and reissued or modified accordingly.

3. If the entity to which a permit is requested to be transferred, owns or operates facilities within the state which are in substantial noncompliance, as determined by the Director, the Director may refuse to transfer the permit until noncompliance is corrected or significant progress is made to achieve compliance.

(b) Modification or Revocation and Reissuance of Permits.

1. The following are causes for modification or revocation and reissuance of permits:

(i) When the Director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a written request for modification or revocation and reissuance, by the permittee or other interested person, or conducts a review of the permit file), the Director may determine whether or not one or more of the causes for modification or revocation and reissuance exists. If cause exists, the Director may modify or revoke and reissue the permit accordingly and may request additional information, an engineering report, and/or an updated application.

When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, an updated application is required, additional information and/or an engineering report may be required, and the entire permit is reopened and subject to revision and the permit is reissued for a new term.

(ii) If cause exists for termination under this Chapter, the Director may determine that modification or revocation and reissuance is appropriate.

(iii) If the Director has received notification, as required in the permit, of a proposed transfer of the permit, he may determine that modification or revocation and reissuance is appropriate.

2. The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees:

(i) There are material and substantial alterations or additions to the facility or activity generating wastewater which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

(ii) Permits may be modified during their terms if the Director has received new 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.

(iii) The pretreatment general or categorical standard(s) on which the permit was based has been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued.

(iv) A SID Permit may be modified to change a compliance schedule when the Director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy; however, in no case may a SID Permit compliance schedule be modified to extend beyond an applicable statutory deadline.

(v) Reopener. A permit shall be modified, when required by the reopener conditions in the permit.

(vi) A permit may be modified to correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions.

(c) Termination of Permits.

1. The following are causes for terminating a permit during its term, or for denying a permit reissuance application:

(i) non-compliance by the permittee with any condition of the permit;

(ii) the permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(iii) a change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge controlled by the permit (for example, plant closure or termination of a discharge to a publicly or privately owned treatment works);

(iv) the permittee's failure to submit a complete application to include additional information requested by the Director and appropriate permit fees;

(v) the discharge endangers human health or the environment; and

(vi) the publicly or privately owned treatment works notifies the Department that the permittee is no longer authorized by the POTW to discharge industrial wastewater to the treatment works.

2. Substantial non-compliance, as determined by the Director, of another facility within the state owned or operated by the permittee requesting issuance of a permit, will be grounds for denial of permit issuance or reissuance until such non-compliance is corrected.

(d) Permit Suspension. When a permittee is not in compliance with a permit, the Director may suspend the permit until the permittee has taken the action(s) necessary to achieve compliance with the permit.

Author: John Poole
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.20 Enforcement.

(1) Any SID Permit issued or reissued by the Department is a permit for the purpose of the AWPCA and the FWPCA and any terms, conditions, or limitations of the permit are enforceable under state and federal law.

(2) Any person required to have a SID Permit pursuant to this Chapter and who discharges pollutants without said permit, who violates the conditions of said permit, who discharges pollutants in a manner not authorized by the permit, or who violates this Chapter or applicable orders of the Department or any applicable rule or standard under this Division, is subject to any one or combination of the following enforcement actions under the AWPCA.

(a) An administrative order requiring abatement compliance, mitigation, cessation of discharge, clean-up, and/or penalties;

(b) An action for damages;

(c) An action for injunctive relief; or

(d) An action for penalties.

(3) Any order issued by the Department pursuant to the AWPCA requiring compliance with the AWPCA, its implementing Rules, or a SID Permit shall specify a reasonable time within which noncompliance must cease. In appropriate cases a reasonable time may be immediately. Reasonableness shall be determined based upon the severity of the violation and the complexity and availability of the measures necessary to correct the violation.

(4) If the permittee is not in compliance with the conditions of an expiring or expired permit the Director may choose to do any or all of the following provided the permittee has made a timely application for reissuance of the permit:

(a) initiate enforcement action based upon the permit which has been continued;

(b) deny the permit reissuance. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(c) reissue the new permit with appropriate conditions; or

(d) take other actions authorized by these Rules and the AWPCA.

(5) At least once each twelve months the Department will issue a news release listing all significant industrial users that have been in significant noncompliance, as defined under 40 CFR Section 403.8 (1994), at any time during the previous twelve month period. A list shall be prepared for each publicly owned treatment works and shall be sent to the local newspaper and to the major newspaper serving the community where the publicly owned treatment works is located. If the significant noncompliance of a discharger has been announced as a result of enforcement action, additional notification shall not be required.

(6) The reports and other documents required to be submitted or maintained under ADEM Admin. Code, Chapter 335-6-5 and permits issued under the Chapter's authority may be subject to:

(a) The provisions of 18 U.S.C. section 1001 relating to fraud and false statements;

(b) The provisions of sections 309(c)(4) of the ACT, as amended, governing false statements, representation or certification; and

(c) The provisions of section 309(c)(6) regarding responsible corporate officers.

Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22-14, 22-22A-5.
History: April 29, 1991. **Amended:** July 12, 1995.

335-6-5-.21 SID Permit Development.

(1) Tentative Determinations. When the Department is satisfied that an application is complete it shall make a tentative determination on the application, including a tentative determination to issue or to deny a SID Permit for the discharge(s) described in the application. If the tentative determination is to issue a SID Permit, the following additional tentative determinations shall be made:

(a) tentative discharge limitations and monitoring requirements shall be identified for the constituents proposed to be limited;

(b) a preliminary schedule of compliance for meeting the tentative discharge limitations including interim dates and requirements, if applicable; and

(c) any other tentative restrictions or other conditions determined necessary by the Director which will significantly affect the discharge described in the application.

(2) A determination may be made by the Director to deny a permit application if the applicant operates other permitted facilities within the state which are in substantial non-compliance, as determined by the Director, until such non-compliance is corrected or if the Director determines that a permit that results in compliance with applicable pretreatment standards or local limits could not be issued or, if issued, could not be complied with.

(3) Draft Permits.

(a) If the tentative determination is to issue, reissue, or modify a SID Permit, the Department shall prepare a draft SID Permit based upon the tentative determinations made pursuant to paragraph 335-6-6-.19(1) for the SID Permit application.

(b) All effluent limitations, monitoring requirements, schedules of compliance, or other conditions determined necessary by the Director to be included in the draft permit shall be in accordance with the provisions of Chapter 335-6-5 where applicable.

(c) For every draft SID Permit, the Department shall prepare a statement (rationale) of the basis of the conditions in the draft SID Permit. The rationale and draft permit shall be available to the public.

(d) If a tentative decision is made to deny the SID Permit application, the Department shall prepare a statement (rationale) of the basis for denial, which shall be available to the public.

(4) The draft permit, denial, and rationale shall be provided the publicly or privately owned treatment works and the applicant and the recipients shall be provided a minimum of 30 days to review and comment on the proposed permit. The applicant and the treatment works may waive any or all of the comment time by mutual agreement.

(5) Comments received from the treatment works and the applicant will be considered by the Director and a final decision to issue the permit as proposed, to modify the proposed permit in response to comments and to issue the modified permit, or to deny the permit will be made by the Director. Should the treatment works choose to object to issuance of the permit, the Director shall deny the permit.

Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.22 Reclassification Of Significant Industrial Users.

(1) The Director may make a finding that an industrial user meeting the definition of a significant industrial user has no reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement and may at any time determine that the industrial user is not a significant industrial user. Prior to making such finding the Director shall notify the POTW receiving the industrial users discharge of his intention and shall request the POTW to submit any comments it wishes concerning the proposed action. The POTW shall be allowed at least 30 days to respond. The Director shall consider the POTW comments prior to making a final decision.

(2) A determination that a industrial user meeting the definition of a significant industrial user is not a significant industrial user shall be made in writing and shall state the reasons for the determination. Such determination may be reevaluated at any time and if justified the user shall be returned to significant industrial user status.
Author: John Poole.
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: April 29, 1991.

335-6-5-.23 Requirements For Dental Dischargers.

(1) **Applicability.**

(a) Except as provided in subparagraphs (c), (d), and (e) of this paragraph, this rule applies to dental dischargers as defined in paragraph (2) of this rule.

(b) Dental dischargers subject to this rule are not Significant Industrial Users as defined in paragraph 335-6-5-.02(oo), and are not "Categorical Industrial Users" or "industrial users subject to categorical pretreatment standards" as those terms and variations are used in this chapter, as a result of applicability of this rule.

(c) This rule does not apply to dental dischargers that exclusively practice one or more of the following dental specialties: Oral pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics, periodontics, or prosthodontics.

(d) This rule does not apply to wastewater discharges from a mobile unit operated by a dental discharger.

(e) This rule does not apply to dental dischargers that do not discharge any amalgam process wastewater to a POTW, such as dental dischargers that collect all dental amalgam process wastewater for transfer to a Centralized Waste Treatment facility as defined in 40 CFR 437.

(f) Dental dischargers that do not place dental amalgam, and do not remove amalgam except in limited emergency or unplanned, unanticipated circumstances, and that certify such to the Department as required in paragraph (5) of this rule are exempt from any further requirements of this rule.

(g) Dental dischargers subject to this rule are not subject to the requirement to obtain an SID permit under rule 335-6-5-.04.

(2) **Definitions**. Whenever used in this rule, the following shall mean:

(a) "Amalgam process wastewater" means any wastewater generated and discharged by a dental discharger through the practice of dentistry that may contain dental amalgam

(b) "Amalgam separator" means a collection device designed to capture and remove dental amalgam from the amalgam process wastewater of a dental facility

(c) "Dental amalgam" means an alloy of elemental mercury and other metal(s) that is used in the practice of dentistry.

(d) "Dental Discharger" means a facility where the practice of dentistry is performed, including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state or local governments, that discharges wastewater to a publicly owned treatment works (POTW).

(e) "Duly Authorized Representative" as defined in 40 CFR §403.12(l)(3)

(f) "Existing sources" means a dental discharger that is not a new source

(g) "Mobile unit" means a specialized mobile self-contained van, trailer, or equipment used in providing dentistry services at multiple locations.

(h) "New sources" means a dental discharge whose first discharge to a POTW occurs after July 14, 2017.

(3) **Compliance Dates for Pretreatment Standards**.

(a) No later than July 14, 2020, any existing source subject to this rule must comply with the requirements of paragraphs (4) of this rule unless exempted by paragraph (1)(f) of this rule.

(b) As of July 14, 2017, any new source subject to this rule must comply with the requirements of paragraphs (4) of this rule unless exempted by paragraph (1)(f) of this rule.

(4) **Pretreatment Standards**.

(a) Removal of dental amalgam solids from all amalgam process wastewater by one of the following methods:

1. Installation, operation, and maintenance of one or more amalgam separators that meet the following requirements:

(i) Compliant with either the American National Standards Institute (ANSI) American National Standard/American Dental Association (ADA) Specification 108 for Amalgam Separators (2009) with Technical Addendum (2011) or the International Organization for Standardization (ISO) 11143 Standard (2008) or subsequent versions so long as that version requires amalgam separators to achieve at least a 95% removal efficiency. Compliance must be assessed by an accredited testing laboratory under ANSI's accreditation program for product certification or a testing laboratory that is a signatory to the International Laboratory Accreditation Cooperation's Mutual Recognition Arrangement. The testing laboratory's scope of accreditation must include ANSI/ADA 108-2009 or ISO 11143.

(ii) The amalgam separator(s) must be sized to accommodate the maximum discharge rate of amalgam process wastewater.

(iii) A dental discharger subject to this rule that operates an amalgam separator that was installed at a dental facility prior to June 14, 2017, satisfies the requirements of subparagraphs (4)(a)1.(i) and (ii) of this rule until the existing separator is replaced as described in subparagraphs (4)(a)1.(v) of this rule or until June 14, 2027, whichever is sooner.

(iv) The amalgam separator(s) must be inspected in accordance with the manufacturer's operating manual to ensure proper operation and maintenance of the separator(s) and to confirm that all amalgam process

wastewater is flowing through the amalgam retaining portion of the amalgam separator(s).

(v) In the event that an amalgam separator is not functioning properly, the amalgam separator must be repaired consistent with manufacturer instructions or replaced with a unit that meets the requirements of subparagraphs (4)(a)1.(i) and (ii) of this rule as soon as possible, but no later than 10 business days after the malfunction is discovered by the dental discharger, or an agent or representative of the dental discharger.

(vi) The amalgam retaining units must be replaced in accordance with the manufacturer's schedule as specified in the manufacturer's operating manual or when the amalgam retaining unit has reached the maximum level, as specified by the manufacturer in the operating manual, at which the amalgam separator can perform to the specified efficiency, whichever comes first.

2. Installation, operation, and maintenance of one or more amalgam removal device(s) other than an amalgam separator. The amalgam removal device must meet the following requirements:

(i) Removal efficiency of at least 95 percent of the mass of solids from all amalgam process wastewater. The removal efficiency must be calculated in grams recorded to three decimal places, on a dry weight basis. The removal efficiency must be demonstrated at the maximum water flow rate through the device as established by the device manufacturer's instructions for use.

(ii) The removal efficiency must be determined using the average performance of three samples. The removal efficiency must be demonstrated using a test sample of dental amalgam that meets the following particle size distribution specifications: 60 percent by mass of particles that pass through a 3150 µm sieve but which do not pass through a 500 µm sieve, 10 percent by mass of particles that pass through a 500 µm sieve but which do not pass through a 100 µm sieve, and 30 percent by mass of particles that pass through a 100 µm sieve. Each of these three specified particle size distributions must contain a representative distribution of particle sizes.

(iii) The device(s) must be sized to accommodate the maximum discharge rate of amalgam process wastewater.

(iv) The device(s) must be accompanied by the manufacturer's manual providing instruction for use including the frequency for inspection and collecting container replacement such that the unit is replaced once it has reached the maximum filling level at which the device can perform to the specified efficiency.

(v) The device(s) must be inspected in accordance with the manufacturer's operating manual to ensure proper operation and maintenance, including confirmation that amalgam process wastewater is flowing through the amalgam separating portion of the device(s).

(vi) In the event that a device is not functioning properly, it must be repaired consistent with manufacturer instructions or replaced with a unit that meets the requirements of subparagraphs (4)(a)2.(i) through (iii) of this rule as soon as possible, but no later than 10 business days after the malfunction is discovered by the dental discharger, or an agent or representative of the dental discharger.

(vii) The amalgam retaining unit(s) of the device(s) must be replaced as specified in the manufacturer's operating manual, or when the collecting container has reached the maximum filling level, as specified by the manufacturer in the operating manual, at which the amalgam separator can perform to the specified efficiency, whichever comes first.

(viii) The demonstration of the device(s) under subparagraphs (4)(a)2.(i) through (iii) of this rule must be documented in the One-Time Compliance Report.

(b) Implementation of the following best management practices (BMP):

1. Waste amalgam including, but not limited to, dental amalgam from chair-side traps, screens, vacuum pump filters, dental tools, cuspidors, or collection devices, must not be discharged to a POTW.

2. Dental unit water lines, chair-side traps, and vacuum lines that discharge amalgam process wastewater to a POTW must not be cleaned with oxidizing or acidic cleaners, including but not limited to bleach, chlorine, iodine and peroxide that have a pH lower than 6 or greater than 8.

(5) **Reporting and Recordkeeping Requirements**.

(a) Dental Dischargers subject to this rule must comply with the following reporting requirements in lieu of otherwise applicable reporting requirements in this chapter:

1. **One-Time Compliance Report deadlines**. For existing sources, a One-Time Compliance Report must be submitted to the Department no later than October 12, 2020, or 90 days after transfer of ownership. For new sources, a One-Time Compliance Report must be submitted to the Department no later than 90 days following the introduction of wastewater into a POTW.

2. **Signature and certification**. The One-Time Compliance Report must be signed and certified by a responsible corporate officer, a general partner or proprietor if the dental discharger is a partnership or sole proprietorship, or a duly authorized representative in accordance with the requirements of rule 335-6-5-.14.

3. **Contents**.

(i) The One-Time Compliance Report for dental dischargers subject to this rule that do not place or remove amalgam as described in paragraph (1)(f) of this rule must include the following: facility name, physical address, mailing address, contact information, name of the operator(s) and owner(s); and a certification statement that the dental discharger does not place dental amalgam and does not remove amalgam except in limited circumstances.

(ii) The One-Time Compliance Report for dental discharges subject to the pretreatment standards of paragraph (4) of this rule must include:

(I) The facility name, physical address, mailing address, and contact information.

(II) Name(s) of the operator(s) and owner(s)

(III) A description of the operation at the dental facility including: The total number of chairs, the total number of chairs at which dental amalgam may be present in the resulting wastewater, and a description of any existing amalgam separator(s) or equivalent device(s) currently operated to include, at a minimum, the make, model, year of installation.

(IV) Certification that the amalgam separator(s) or equivalent device is designed and will be operated and maintained to meet the requirements specified in subparagraph (4)(a) of this rule.

(V) Certification that the dental discharger is implementing BMPs specified in subparagraph (4)(b) of this rule and will continue to do so.

(VI) The name of the third-party service provider that maintains the amalgam separator(s) or equivalent device(s) operated at the dental office, if applicable. Otherwise, a brief description of the practices employed by the facility to ensure proper operation and maintenance in accordance with paragraph (4) of this rule.

4. **Transfer of ownership notification**. If a dental discharger transfers ownership of the facility, the new owner must submit a new One-Time Compliance Report to the Department no later than 90 days after the transfer.

5. **Retention Period**. As long as a dental discharger subject to this rule is in operation, or until ownership is transferred, the dental discharger or an agent or representative of the dental discharger must maintain the One-Time Compliance Report required at subparagraph (5)(a) of this rule and make it available for inspection in either physical or electronic form.

(b) Dental dischargers or an agent or representative of the dental discharger must maintain and make available for inspection in either physical or electronic form, for a minimum of 3 years:

1. Documentation of the date, person(s) conducting the inspection, and results of each inspection of the amalgam separator(s) or equivalent device(s), and a summary of follow-up actions, if needed.

2. Documentation of amalgam retaining container or equivalent container replacement (including the date, as applicable).

3. Documentation of all dates that collected dental amalgam is picked up or shipped for proper disposal in accordance with subparagraph 335-14-3-.01(4)(a)5., and the name of the permitted or licensed treatment, storage or disposal facility receiving the amalgam retaining containers.

4. Documentation of any repair or replacement of an amalgam separator or equivalent device, including the date, person(s) making the repair or replacement, and a description of the repair or replacement (including make and model).

5. Dental dischargers or an agent or representative of the dental discharger must maintain and make available for inspection in either physical or electronic form the manufacturing operating manual for the current device.

Author: Scott Ramsey
Statutory Authority: Code of Ala. 1975, §§22-22-9, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Filed: Published October 30, 2020; effective December 14, 2020.

Ed. Note: Previous Chapter 336-6-5 (same title) consisting of Rules:

336-6-5-.01 Purpose
336-6-5-.02 Definitions
336-6-5-.03 Requirements for Indirect Discharge Permit
336-6-5-.04 Duty to Comply
336-6-5-.05 General Pretreatment Standards and Requirements
336-6-5-.06 Categorical Pretreatment Standards
336-6-5-.07 Development of Pretreatment Programs
336-6-5-.08 Revision of Categorical Pretreatment Standards to Reflect POTW Removal of Pollutants
336-6-5-.09 Request for Revision of Categorical Pretreatment Standards
336-6-5-.10 Preliminary Review of POTV Pretreatment Programs and Revision of Categorical Pretreatment Standards
336-6-5-.11 Approval Procedures for POTW Pretreatment Programs and Revisions of Categorical Pretreatment Standards
336-6-5-.12 Continuation and Withdrawal of Revisions of Categorical Pretreatment Standards
336-6-5-.13 Reporting Requirements
336-6-5-.14 Cooperative Agreements

REPEALED AND NEW CHAPTER ADOPTED IN LIEU THEREOF: Filed March 25, 1991.