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

CHAPTER 335-6-12
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) CONSTRUCTION, NONCOAL/NONMETALLIC MINING AND DRY PROCESSING LESS THAN FIVE ACRES, OTHER LAND DISTURBANCE ACTIVITIES, AND AREAS ASSOCIATED WITH THESE ACTIVITIES

335-6-12-.02 Definitions.

The following words and terms, when used for the purposes of this Chapter, shall have the following meanings unless the context clearly indicates otherwise or unless a different meaning is stated in a definition applicable to only a portion of this Chapter. Unless inconsistent with this Chapter as determined by the Director, other words and phrases used in this Chapter shall have the same meaning as used in Chapters 335-6-3, 335-6-6, 335-6-7, 335-6-9, 335-6-10, 335-6-11, and the Alabama Water Pollution Control Act (AWPCA), as amended.

(a) "Alabama Handbook" means the Introduction through Appendix A7, inclusive, of the Alabama Handbook For Erosion Control, Sediment Control, And Stormwater Management On Constructions Sites And Urban Areas, Alabama Soil and Water Conservation Committee (ASWCC) (2002).

(b) "Associated Areas" means other onsite or adjacent support activities, including but not limited, to construction site temporary office space, parking areas, employee work areas, material stockpiles, waste or material storage, disposal, equipment storage, chemical/fuel storage and staging areas.

(c) "Best Management Practices" (BMPs)

1. BMPs mean planning, project phasing, schedules of activities, implementation, operating, and maintenance procedures, management strategies, effective treatment practices, and to the extent necessary, post-construction follow-up continuing maintenance, that meet or exceed recognized effective industry standard practices, that meet or exceed the technical standards and guidelines of the Alabama Handbook, and that meet or exceed the requirements of this Chapter, that are implemented to prevent/minimize pollutant discharges to the maximum extent practicable. BMPs also include effective practices to control pollutant discharges from land disturbance activities associated with pre-construction testing, site assessment, surveying, and other pre-construction development support activities. BMPs also include

effective practices to control pollutant discharges from spillage or leakage, stormwater transport, storage, treatment, or disposal.

2. BMPs also mean full implementation and continued maintenance of effective structural and non-structural practices and planning/management strategies to ensure effective erosion and sediment control, and prevent/ minimize the introduction of pollutants to stormwater and to treat stormwater to remove pollutants to the maximum extent practicable prior to discharge. BMPs also mean the treatment of construction associated de minimus non-stormwater or process wastewater discharges authorized pursuant to the requirements of this Chapter, including but not limited to, pit dewatering, drilling fluids (augering), and the proper handling and disposal of construction wastes, and prevention of the discharge of petroleum products, solvents, and other chemicals. BMPs also mean implementation of effective construction site nutrient management practices, temporary, annual, or perennial vegetation management, minimally disturbed natural riparian buffer area, fully vegetated filter strips, and streambank management practices. A BMP can be a single practice or more than one practice that combined will provide continuing effective treatment.

3. Any management practice, structure, or procedure, that is not recognized by the Department as a BMP based on performance, not installed/implemented correctly, not maintained, not adequately or properly located/sited, not suitable for the specific site conditions, not designed or configured to control potential or existing site conditions where the BMP is located, including but not limited to, steep slopes or grades, soils, potential precipitation and size of drainage area, which is not consistent with effective erosion and sediment control, that does not meet or exceed recognized effective industry standard practices, or not in accordance with the Alabama Handbook or other ADEM recognized BMP documents, is not considered or recognized as a BMP under this Chapter.

(d) "Chronic And Catastrophic Precipitation" means precipitation events which may result in failure of the properly designed, located, implemented, and maintained BMPs or other structure/practices required by this Chapter. Catastrophic precipitation conditions means any single event of significant total volume, or of increased intensity and shortened duration, that exceeds normally expected or predicted precipitation over the time period that the disturbance is planned or is ongoing, as determined by the Department. Catastrophic conditions could also include tornadoes, hurricanes, or other climatic conditions which

could cause failure due to winds or mechanical damage. Chronic precipitation is also that series of wet-weather conditions over a limited time-period which does not provide any opportunity for emergency maintenance, reinstallation, and corrective actions and which equals or exceeds the volume of normally expected or predicted precipitation for the time period that the disturbance is planned or is ongoing.

(e) "Construction" means any land disturbance or discharges of pollutants associated with, or the result of building, excavation, land clearing, grubbing, placement of fill, grading, blasting, reclamation, areas in which construction materials are stored in association with a land disturbance or handled above ground, and other associated areas including, but not limited to, construction site vehicle parking, equipment or supply storage areas, material stockpiles, temporary office areas, and access roads. Construction also means significant pre-construction land disturbance activities performed in support or in advance of NPDES construction activity including, but not limited to, land clearing, dewatering and geological testing. Construction does not include de minimus pre-construction or other minor land disturbing activities, such as, but not limited to, the installation of auger holes, bore holes, or small excavations, unless such activities cause discharges which present a reasonable potential for significant contribution of pollutants to State waters or reasonable potential to cause or contribute to a violation of applicable water quality standards. For the purposes of this Chapter, construction does not include mining, wet preparation, beneficiation, recovery, storage, handling, and transloading of coal or metallic ores/ minerals, and any mining or mineral processing, beneficiation, storage, handling, and associated activity/disturbance equal to or greater than five (5) acres in size.

(f) "Construction Best Management Practices Plan" (CBMPP) means any research, planning considerations, systems, procedures, processes, activities, and practices implemented for the prevention and/or minimization of pollutants in stormwater to the maximum extent practicable, and collection, storage, treatment, handling, transport, distribution, land application, or disposal of construction stormwater and onsite management of construction waste generated by the construction activity, and to comply with the requirements of this Chapter. This includes any required component plans and other pertinent information requested by the Department. The CBMPP shall be prepared/ certified, and when necessary updated/certified, by a qualified credentialed professional (QCP) in accordance with the requirements of this Chapter.

(g) "Construction Site" means any site regardless of size where construction or construction associated activity has commenced, or is continuing, and associated areas, including

sites where active work is suspended or has ceased, until the activity is completed and effective reclamation and/or stormwater quality remediation has been achieved.

(h) "Construction Waste" means construction and land disturbance generated materials, including but not limited to, waste chemicals, sediment, trash, debris, litter, garbage, construction demolition debris, land clearing and logging slash or other materials or pollutants located or buried at the site prior to disturbance activity or that is generated at a construction site.

(i) "Director" means the Director of the Alabama Department of Environmental Management (ADEM) or the Director's designee.

(j) "Maximum Extent Practicable" means full implementation and regular maintenance of available industry standard technology and effective management practices, such as those contained in the Alabama Handbook, designed to prevent and/or minimize discharges of pollutants and ensure protection of groundwater and surface water quality.

(k) "Noncoal Mining Site" means an area, on or beneath land, less than five (5) total unreclaimed acres in size, used or disturbed in activity, including but not limited to, advance prospecting, noncoal mining site development, extraction, removal, mining, borrowing, remining, storing, transloading, dry processing, transportation, and/or recovery of any noncoal and nonmetallic mineral, ore, or mineral/ore product, including but not limited to, overburden, dirt, chert, soil, clay, rock, stone, aggregate, sand, gravel, tailings, and refuse from natural or artificial deposits. Pre-mining construction and land preparation, including but not limited to, clearing, grubbing, testing and advance prospecting in advance of mining activity is considered part of the noncoal mining activity which is required to register under this Chapter prior to commencement. For the purposes of this Chapter, noncoal mining does not mean any mining or recovery site, or associated product processing, recovery, storing, handling or transloading operations equal to or greater than five (5) acres in size, any mineral or ore wet processing or beneficiation regardless of size, and any metal ore/mineral, coal or associated product, mining, recovery, remining, processing, storing, handling or transloading operations, regardless of size.

(l) "Notice of Registration" (NOR) means an application, including all applicable fees imposed by Chapter 335-1-6, filed by the operator requesting National Pollutant Discharge Elimination System (NPDES) registration under this Chapter on a form or via electronic means as approved by the Department.

(m) "NPDES Construction Site" means construction activities that are required to obtain NPDES permit coverage under this Chapter. An NPDES Construction Site is construction that disturbs 1 acre or greater or will disturb less than 1 acre but is part of a larger common plan of development or sale whose total land disturbing activities total 1 acre or greater. An NPDES construction site also includes construction sites, irrespective of size, whose stormwater discharges have a reasonable potential to be a significant contributor of pollutants to a water of the State, or whose stormwater discharges have a reasonable potential to cause or contribute to a violation of an applicable Alabama water quality standard as determined by the Department.

(n) "Operator" means any person, registrant, or other entity, that owns, operates, directs, conducts, controls, authorizes, approves, determines, or otherwise has responsibility for, or exerts financial control over the commencement, continuation, or daily operation of activity regulated by this Chapter. An operator includes any person who treats and discharges stormwater or in the absence of treatment, the person who generates and/or discharges stormwater, or pollutants. An operator may include but may not be limited to, property owners, agents, general partners, LLP partners, LLC members, leaseholders, developers, builders, contractors, or other responsible or controlling entities. An operator does not include passive financial investors that do not have control over activities regulated by this Chapter.

(o) "Plan or Sale" as included in the phrase "larger common plan of development or sale" is broadly defined to mean any announcement or documentation, sales program, permit application, presentation, zoning request, physical demarcation, surveying marks, etc., associated with or indicating construction activities may occur in an area.

(p) "Qualified Credentialed Inspector (QCI) means an operator, operator employee, or operator designated qualified person who has successfully completed initial training and annual refresher Qualified Credentialed Inspection Program (QCIP) training, and holds a valid certification from a Department approved cooperating training entity.

(q) "Qualified Credentialed Inspection Program (QCIP)" means a Department approved program conducted by a cooperating training entity. Approved programs provide training in the requirements of the Alabama NPDES rules, the Department's construction stormwater management program, evaluation of construction sites to ensure that QCP designed and certified BMPs detailed in a CBMPP are effectively implemented and maintained, and evaluation of conveyance structures, receiving waters and adjacent impacted offsite areas to ensure the

protection of water quality and compliance with the requirements of this Chapter.

(r) "Qualified Credentialed Professional" (QCP) means any staff member of the Department designated by the Director, a Professional Engineer, an Alabama Natural Resources Conservation Service professional designated by the State Conservationist, or a Certified Professional In Erosion And Sediment Control (CPESC). A QCP includes a registered landscape architect, a registered land surveyor, a Professional Geologist, a registered forester, a Registered Environmental Manager as determined by the National Registry of Environmental Professionals (NREP), and a Certified Professional Soil Scientist (CPSSc) as determined by ARCPACS, and other Department accepted professional designations, certifications, and/or accredited university programs that can document requirements regarding proven training, relevant experience, and continuing education, that enable recognized individuals to prepare CBMPPs, to make sound professional judgments regarding Alabama NPDES rules, the requirements of this Chapter, planning, design, implementation, maintenance, and inspection of construction sites, receiving waters, BMPs, remediation/cleanup of accumulated offsite pollutants from the regulated site, and reclamation or effective stormwater quality remediation of construction associated land disturbances, that meet or exceed recognized technical standards and guidelines, effective industry standard practices, and the requirements of this Chapter. The QCP shall be in good standing with the authority granting the registration or designation.

(s) "Reclaimed" means that all disturbed areas are permanently covered by completed buildings, other structures, pavement/ concrete, other acceptable impervious materials, or other effective permanent non-vegetative structures and practices. Reclaimed also means that all disturbed areas have been graded, slopes effectively stabilized, and perennial vegetation has been fully established with the ability to survive in the future if properly maintained, to prevent/ minimize to the maximum extent practicable exposure of disturbed soils to erosion as necessary to protect water quality.

(t) "Registered Forester" means a person who is registered and holds a valid license by the Alabama Board of Registration for Foresters (Code of Ala. 1975, §§34-12-1 through 34-12-37, as amended).

(u) "Stormwater" means runoff, accumulated precipitation, process water, and other wastewater generated directly or indirectly as a result of construction activity, the operation of a construction material management site, or the operation of a noncoal mining site, including but not limited to,

precipitation, upgradient or offsite water that cannot be diverted away from the site, and wash down water associated with normal construction activities. Stormwater does not mean discharges authorized by the Department via other permits or regulations.

(v) "Stormwater Quality Remediation" means effective permanent structural or non-structural management practices implemented at a construction or noncoal mining site that will prevent or ensure continuing effective minimization of pollutants in stormwater discharges to groundwater and surface waters to the maximum extent practicable, and to prevent a contravention of applicable water quality standards. Stormwater quality remediation also means that the active total unreclaimed construction disturbance and any potential future construction activity at the site/development have been reduced to less than one (1) acre and there is no potential for adverse impacts to water quality provided the operator maintains compliance with BMP and performance requirements of this Chapter.

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Statutory Authority: Code of Ala. 1975, §§22-22-1 to 22-22-14; 22-22A-1 to 22-22A-16 et seq., as amended.
History: New Rule: Filed December 19, 2002; effective January 23, 2003.