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-.11 Registration Requirements For NPDES Construction Sites.

(1) Except as provided otherwise by this Chapter, after March 1, 2003 or the effective date of this Chapter, whichever date occurs later, new or continued operation of NPDES construction sites that have not submitted a complete and correct Notice of Registration (NOR) or application requesting coverage under a valid NPDES general permit, or individual permit, is prohibited. Except as provided otherwise by this Chapter, after March 1, 2003 or the effective date of this Chapter, whichever date occurs later, commencement of construction at proposed NPDES construction sites that have not submitted a complete and correct NOR acceptable to the Department, or have not been granted NPDES permit coverage under a valid NPDES general permit, or individual permit, is prohibited.

(2) After March 1, 2003, or the effective date of this Chapter, whichever date occurs later, modification of an existing construction site/activity less than one (1) acre that would result in an increase in size or change in construction activity such that the construction site would become an NPDES construction site, is prohibited, unless the operator has first submitted a complete and correct Notice of Registration (NOR) to the Department.

(3) Except as provided by Rule 335-6-12-.11(4), upon submission to the Department of a complete and correct NOR, including the correct registration fee, CBMPP if required, and applicable QCP certifications, unless notified by the Department that the NOR is incorrect or incomplete, that additional time is needed by the Department to review the NOR, or that the NOR has been denied, the operator is authorized to commence and/or continue construction disturbance provided the construction site remains in full compliance with all provisions of this Chapter.

(4) For NPDES construction sites/activity discharging and/or proposing to discharge to a Tier 1 waterbody segment, unless notified by the Department within thirty (30) days after receipt by the Department of a complete and correct NOR, including the correct registration fee, CBMPP, and applicable QCP

certifications, that the NOR is incorrect or incomplete, that additional time is needed by the Department to properly process the NOR, or that the NOR has been denied, the operator is authorized to commence construction disturbance provided the construction site remains in full compliance with all provisions of this Chapter.

(5) As determined necessary by the Department, a new or existing construction site regardless of size, which discharges to a Tier 1 waterbody segment that has been listed for a pollutant that is likely to be discharged from the construction site including, but not limited to sediment, may also be required to register under this Chapter.

(6) Unless required by applicable federal law or State law, and provided the activity is not being conducted in support of, in conjunction with, or to prepare for NPDES construction activity as defined by this Chapter, the following construction activities are not required to register under this Chapter:

(a) Normal silvicultural harvesting and associated silvicultural construction practices conducted in accordance with Rule 335-6-6-.03 and Rule 335-6-6-.10 that are not planned or performed in immediate advance of, in support of, or as part of, a regulated construction activity or development.

1. For the purposes of this Chapter, silvicultural construction includes certain temporary nonmetallic/ noncoal material acquisition or borrow activity that is reasonably considered as an extension of forest road construction activity. Generally, small, temporary material borrow areas for silvicultural local road construction are considered part of the normal nonpoint source silvicultural activity, including but not limited to, timber harvesting, site preparation, tree planting, controlled burning, fertilization and are not required to register under this Chapter provided the duration of the disturbance is minimized to the extent possible, but in all cases is less than sixty (60) days, effective BMPs are fully implemented and regularly maintained to the maximum extent practicable prior to, during, and immediately after use of each completed increment of the borrow area until the site is reclaimed or effective stormwater quality remediation is achieved, and the total active, unreclaimed land disturbance is less than five (5) acres in size at all times;

2. In addition, in order for temporary material borrow areas for silvicultural local road construction to be considered part of the normal nonpoint source silvicultural activity not required to register under this Chapter, the disturbance shall be conducted to

ensure that borrow material is exclusively obtained for construction and periodic maintenance of forest roads utilized in silvicultural activities. The temporary disturbed area shall be continually graded and reclaimed to within a safe operating distance from any high-wall or steep slope and the temporary borrow area is used exclusively by a single operator within the scope of the operator's own operations. Re-establishment of permanent vegetative cover shall be accomplished immediately after active disturbance is completed for each disturbed increment, and the active non-graded, non-reclaimed area adjacent to the active high-wall shall not exceed one-half acre. The borrow area shall be located outside of streamside management zones and outside the designated 50-year flood plain and the site is located as close as practicable near scheduled road construction and maintenance activities to the extent that appropriate road fill material is available. Fuel storage tanks/ containers shall not remain onsite unattended dry/wet crushing/screening or other processing shall not be conducted, the borrow activity shall not result in a point source discharge to surface waters of the State, and the Department shall be notified immediately of any unpermitted discharges or non-compliant discharges in order to ensure the protection of water quality;

3. Road construction and maintenance shall be for support of normal nonpoint source silvicultural practices only. Material borrow activity for construction or maintenance of dual-use or multi-use roads used for silvicultural practices but which are also used incidentally for access to other types of activities or development is exempt. However, material borrow activity for construction or maintenance of dual-use or multi-use roads used primarily for access to other types of regulated non-silvicultural development, including but not limited to, marinas, barge/rail loading facilities, industrial/manufacturing facilities and subdivision developments, is not exempt and requires registration under this Chapter;

(b) Animal feeding operation (AFO) or concentrated animal feeding operation (CAFO) construction activity that has been granted NPDES registration pursuant to Chapter 335-6-7;

(c) Aquatic animal production facilities, concentrated aquatic animal production facilities, and aquaculture project construction associated activity that have been granted NPDES permit coverage in accordance with Rule 335-6-6-.03 and Rule 335-6-6-.10;

(d) Normal, on-farm non-AFO agricultural planting, harvesting and associated normal agricultural practices in accordance with Rule 335-6-6-.03 and Rule 335-6-6-.10. For the purposes

of this Chapter, normal agricultural practices also means practices commensurate with the size of the farming operation that are implemented in a manner that meet or exceed Natural Resources Conservation Service technical standards and guidelines, including but not limited to, farm ponds that are constructed for the primary purpose of irrigation and/or watering of livestock, terraces, grassed waterways, vegetative filter strips, cropland grade stabilization measures, drainage tiles, underground outlets, land leveling, dike/diversion structures, and other grade stabilization structures;

(e) Discharges of treated stormwater from construction or land disturbance activity regulated by this Chapter that is specifically authorized by a valid individual NPDES permit, valid State Indirect Discharge (SID) permit, or other valid ADEM permit, provided the valid ADEM permit contains specific, detailed BMP requirements and other provisions to effectively treat/control construction stormwater runoff consistent with the requirements of this Chapter, or requires compliance with the requirements of the this Chapter, or requires compliance with the Department's construction stormwater management program;

(f) Surface mining operations and associated activities, coalbed methane exploration, development, production and associated activities, and construction bulk materials management, including but not limited to, storage, transloading, and/or dry processing, that has valid NPDES individual permit coverage, or valid State Indirect Discharge (SID) permit coverage that contains specific, detailed BMP requirements and other provisions to effectively treat/control construction stormwater runoff; or

(g) Construction bulk materials management, including but not limited to, storage, transloading, and/or dry processing, conducted entirely under roof without any exposure or contact with precipitation and without stormwater discharges of any kind consistent with the requirements of Rule 335-6-6-.03. This includes the requirement to submit a No Exposure Certification Form.

(7) Unless the registration is properly terminated pursuant to the requirements of this Chapter, failure by the operator to submit a complete and correct NOR requesting re-registration under this Chapter prior to the expiration of registration, unless extended in writing by the Director, shall void the automatic continuation of registration to discharge under this Chapter as provided by Rule 335-6-6-.06.

(8) The Director may condition registration(s) as needed to ensure compliance with the requirements of the AWPCA, ADEM regulations, and the requirements of this Chapter, to ensure the protection of water quality.

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