**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-.33 Ineffective BMPs, Discharge Prohibitions, And Noncompliance Notification.

(1) The discharge of pollutants from NPDES construction sites/ activity not effectively treated to the maximum extent practicable by BMPs implemented and maintained pursuant to the requirements of this Chapter is prohibited. If, for any reason, there is a non-compliant discharge that causes or contributes to a violation of applicable water quality standards, the operator is required to visually monitor and notify the Department as soon as possible, but in no case later than 24-hours after becoming aware of such discharge.

(2) The operator shall document and submit the following information in a form acceptable to the Department within five (5) days of becoming aware of any BMP deficiency/failure or non-compliant discharge that causes or contributes to a violation of applicable water quality standards:

(a) A description, including any photographs, and the reason for the deficiency, including an estimate of the flow, discharge volume, and any analytical data associated with the noncompliant discharges;

(b) The period of noncompliant discharge, including beginning and ending times and dates, and, if not already corrected, the anticipated date the non-compliant discharge is expected to cease, and steps taken (or to be taken) to reduce, eliminate, mitigate, and prevent the recurrence of such discharge;

(c) If the non-compliant discharge was caused by chronic or catastrophic precipitation event(s), information from the on-site precipitation gauge or weather station in close proximity to the facility documenting the amount and duration of the precipitation event(s); and

(3) The Department may require testing deemed necessary to protect waters of the State or to determine continuing compliance with the requirements of this Chapter.

(4) The operator shall take all reasonable precautions to prevent the discharge of waters which have been, or could be, contaminated by pesticides, paints, solvents, preservatives, surfactants, surface blasting, pressure cleaning, excess coagulant, excess flocculent, or other chemicals, or activities. Termaticides, other pest and parasite controls, and water used to clean equipment used for the application of potentially hazardous or toxic chemicals shall be handled and disposed of and in a manner so as to prevent any pollutant from such material from entering the waters of the State according to applicable State and federal law.

(5) NPDES construction sites discharging through a municipal separate storm sewer system (MS4) shall comply with the requirements of this Chapter prior to discharging to the system receiving the NPDES construction stormwater discharge.

(6) The discharge of stormwater, generated by any process, facility, or by any other means not under the operational control of the operator, not identified in the NOR, or not identified specifically in the description of a source when requesting registration, is not authorized by this Chapter.

(7) Discharge Prohibitions

(a) Except as specifically provided otherwise by this Chapter, discharge of any untreated stormwater from a NPDES construction site to waters of the State at any time is prohibited, except as a direct result of periods of chronic or catastrophic precipitation or weather conditions as determined by the Department, provided:

1. The Department is notified as required by this Chapter;

2. Appropriate, effective BMPs that meet or exceed the requirements of this Chapter have been fully implemented and regularly maintained prior to the causative precipitation event;

3. The discharge is unavoidable after the operator has taken action to prevent discharge(s) to the maximum extent practicable;

4. The operator takes action to terminate discharge(s) to the maximum extent practicable and as soon as possible; and

5. The operator takes action to mitigate any impacts caused by the discharge(s) to the maximum extent practicable and as soon as possible.

(b) Uncontaminated drainage or runoff which does not come into contact with construction activity or other pollutants should

be excluded from flowing onto the site to the extent practicable.

(8) The operator shall give the Department written advance notice of any anticipated noncompliance, planned changes, or other circumstances regarding disturbance activities which may result in noncompliance with the requirements of this Chapter.

(9) Noncompliance Notification

(a) If for any reason, the operator's discharge:

1. threatens human health or welfare, fish or aquatic life, or water quality standards;

2. does not comply with an applicable toxic pollutant effluent standard or prohibition established under §307(a) of the FWPCA, 33 U.S.C. §1317(a);

3. contains a quantity of a hazardous substance which has been determined may be harmful to public health or welfare under §311(b)(4) of the FWPCA, 33 U.S.C. §1321(b)(4);

4. exceeds any Chapter condition or discharge limitation for an effluent characteristic as a result of an unanticipated bypass and/or upset;

5. is an unpermitted direct or indirect discharge of a pollutant to a water of the state (unpermitted discharges properly reported to the Department under any other requirement are not required to be reported under this provision); or

6. if the operator is in significant noncompliance with the CBMPP and BMPs required by this Chapter, the operator shall report the occurrence and circumstances of such discharge to the Department with a written report with content and in a format acceptable to the Department no later than five (5) days after becoming aware of the occurrence of such discharge.

(b) If for any reason, the operator's discharge does not comply with any limitation or condition of this Chapter, the operator shall submit to the Department a written report as provided in Rule 335-6-12-.33(14)(c) below. Such report shall be submitted no later than five (5) days after becoming aware of the occurrence of such noncompliance.

(c) Any written report required to be submitted to the Department by Rule 335-6-12-.33(14)(a) or (b) above shall be submitted using a copy of the Noncompliance Notification Form, and shall include the following information:

1. A description of the discharge and cause of noncompliance;

2. The period of noncompliance, including dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

3. A description of the steps taken and/or being taken to reduce or eliminate the non-complying discharge and to prevent its recurrence.

4. A description of the efforts taken to mitigate any adverse impacts of such noncomplying discharge.

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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.