

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
 Rule No. 335-3-11-.01
 Rule Title: General

____ New X Amend ____ Repeal ____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? YES

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? YES

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

 Does the proposed rule have an economic impact? YES


If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer *Manly Elliott*

Date 12-17-2012

Date Filed 

APA-2
11/96

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

RULE NO. & TITLE: 335-3-11-.01 General (Amend)
335-3-11-.06 National Emission Standards for Hazardous
Air Pollutants for Source Categories (Amend)
335-3-11-.07 Appendices to 40 CFR 63 (Amend)

INTENDED ACTION: Revise Division 3 of the ADEM Administrative Code with the amendment of Rules 335-3-11-.01 (General), 335-3-11-.06 (National Emission Standards for Hazardous Air Pollutants for Source Categories), and 335-3-11-.07 (Appendices to 40 CFR 63).

SUBSTANCE OF PROPOSED ACTION:

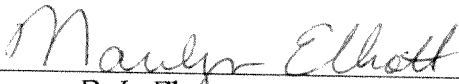
Revisions to the Division 3 Code are being proposed to amend Rules 335-3-11-.01, 335-3-11-.06, and 335-3-11-.07 in Chapter 335-3-11 in order to incorporate by reference EPA changes to the National Emission Standards for Hazardous Air Pollutants (NESHAPs). This incorporation allows the EPA to delegate administrative enforcement of these regulations to ADEM. Chapter 335-3-11 is not considered as a part of the federally enforceable State Implementation Plan (SIP). As such, any revisions to this Chapter/Rule are not proposed to be incorporated into Alabama's SIP.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held 10:00 a.m., February 6, 2013, in the ADEM Hearing Room, 1400 Coliseum Blvd., Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: February 8, 2013

CONTACT PERSON AT AGENCY: Chris Howard (334) 271-7878



Lance R. LeFleur
Director

335-3-11-.01 General.

(1) The Environmental Protection Agency Regulations, and the Appendices applicable thereto, governing Hazardous Air Pollutants, 40 CFR, Part 61 and Appendices, designated in rules 335-3-11-.02 and 335-3-11-.03 and 40 CFR Part 63, and Appendices designated in rules 335-3-11-.06 and 335-3-11-.07 are incorporated by reference as they exist in 40 CFR 61 (2007) and 40 CFR 63 (July 1, 2011/2012), and ~~76 FR 72050 [11/21/2011; amendments to Subparts II and JJ], and 77 FR 9304 [02/16/2012; amendments to Subpart A and addition of Subpart UUUUU], and 77 FR 23399 [04/19/2012; amendments to Subpart UUUUU], 77 FR 49490 [08/16/2012; amendments to Subparts A, HH, and HHH], and 77 FR 55698 [09/11/2012; amendments to Subparts A and S], and 77 FR 58220 [09/19/2012; amendments to Subparts N and CCC, and Appendix A],~~ as amended by the word or phrase substitutions given in rule 335-3-11-.04. References for specific documents containing the complete text of subject regulations are given in Appendix C to these Regulations. Authorities which are not delegable to the state are also listed in Appendix C.

[NOTE: The standards pertaining to the Consolidated Federal Air rule are located in chapter 335-3-11A.]

(a) The materials incorporated by reference are available for purchase and inspection at the Department's offices at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

(2) In the event of any conflict between the regulations contained in this chapter and regulations contained in other chapters, the more stringent regulations will take precedence.

(3) Definitions. For purposes of this chapter, the definitions listed in 40 CFR 61.02, Subpart A will apply in rules 335-3-11-.02 and 335-3-11-.03 and the definitions listed in 40 CFR 63.2, Subpart A will apply in rules 335-3-11-.06 and 335-3-11-.07.

Author:

Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.

History: Effective Date: May 25, 1976.

Amended: February 13, 1985; June 9, 1987; June 16, 1988; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 30, 1992; December 28, 1993; November 23, 1995; November 21, 1996; September 25, 1997; March 27, 1998; November 19, 1998; July 15, 1999; January 13, 2000; September 7, 2000; March 14, 2002; October 3, 2002; April 3, 2003; October 2, 2003; March 22, 2005; December 12, 2005; July 11, 2006; April 3, 2007; January 22, 2008; August 5, 2008; January 19, 2009; March 30, 2010; May 23, 2011; May 29, 2012; January 22, 2013; XXXXXX, 2013.

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23 (f))**

Control No. 335 Department or Agency Environmental Management

Rule No: 335-3-11-.01; 335-3-11-.06; 335-3-11-.07

Rule Title: General; National Emission Standards for Hazardous Air Pollutants for Source Categories; Appendices to 40 CFR 63

 New X Amend Repeal Adopt by Reference

 This rule has no economic impact.

 X These rules have an economic impact, as explained below:

Impact of Revisions to Chapter 335-3-11

Chapter 335-3-11 of the ADEM Administrative Code incorporates the federal regulations by reference, as they are promulgated by the EPA. Through this adoption, the Alabama Department of Environmental Management is given primacy to enforce these regulations at the state level. In the event that these regulations are not adopted by reference and implemented by the state, the EPA will implement the requirements on the federal level. National Emission Standards for Hazardous Air Pollutants are incorporated into Chapter 335-3-11.

The Federal Registers which are subject to the incorporation by reference are submitted as an attachment to this package.

1. NEED/EXPECTED BENEFIT OF RULE:

The adoption of these revisions to Chapter 335-3-11 by the State of Alabama will allow the regulations to be implemented and enforced by the Alabama Department of Environment Management. As discussed above, adoption of these regulations will allow the Department to retain State primacy of the federal program.

2. COST/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

There will be no additional cost incurred by the residents of, or companies operating in, the State of Alabama if the revisions to the federal regulations are incorporated and adopted by the State. The costs are equivalent to the cost of compliance with the same regulations

implemented by the federal government. Sources of air pollution will be subject to the same requirements for the installation of controls to prevent the emission of air pollution regardless of which agency (state or federal) implements these regulations.

3. EFFECT OF THIS RULE ON COMPETITION:

Adoption of these federally required regulations is not expected to have any effect on competition. As stated above, if the regulations are not adopted by the State of Alabama, they will be implemented on the federal level, and Alabama companies will be required to comply with the federal regulations and answer directly to the federal Environmental Protection Agency (EPA).

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

Adoption of these federally required regulations is not expected to have any effect on the cost-of-living and doing business in the geographical area of implementation (State of Alabama). As stated above, if the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Therefore, Alabama companies still would be required to comply with the federal regulations and answer directly to the federal EPA.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

Adoption of these federally required regulations is not expected to have any effect on the employment in the geographical area in which the regulation would be implemented (State of Alabama).

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Revenue from the Federal Grant and fines and fees collected by the Department will fund the adoption of this regulation. For sources subject to Title V of the Clean Air Act, as amended, fees are collected based on the amount of air pollution emitted annually.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

The adoption of the proposed regulation is not expected to have any short-term or long-term economic impact. As stated above, if the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Alabama companies would still be required to comply with the federal regulations and answer directly to the federal EPA.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

No additional burdens are expected as a result of the adoption of these regulations. If the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Alabama companies would still be required to comply with the federal regulations and answer directly to the federal EPA.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

The effect of the regulation on the environment and public health is addressed in the

accompanying Federal Registers.

10. **DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:**

The benefits of the proposed regulations have been discussed in the above paragraphs, as well as, the Federal Registers. Alabama is required to adopt these regulations by the EPA in order to continue to have primacy in implementing an air pollution control program. In the event that the regulations are not adopted at the State level, the requirements will still exist at the federal level. However, it is generally acknowledged that regulations are implemented and enforced in a more effective and efficient manner at the State level than at the federal level.