

APA-2
11/96

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME:

Department of Environmental Management

RULE NO. & TITLE:

335-3-8-.05 NO_x Budget Trading Program (Repeal/New)
335-3-8-.06 Authorized Account Representative for NO_x Budget
Sources (Repeal/New)
335-3-8-.07 Permits (Repeal)
335-3-8-.08 Compliance Certification (Repeal)
335-3-8-.09 NO_x Allowance Allocations (Repeal)
335-3-8-.10 NO_x Allowance Tracking System (Repeal)
335-3-8-.11 NO_x Allowance Transfers (Repeal)
335-3-8-.12 Monitoring and Reporting (Repeal)
335-3-8-.13 Individual Unit Opt Ins (Repeal)
335-3-8-.14 New Combustion Sources (Repeal/New)
335-3-8-.15 Standards for New Combined Cycle Electric
Generating Units (Repeal/New)
335-3-8-.16 CAIR NO_x Annual Trading Program (Repeal)
335-3-8-.17 CAIR Designated Representative for CAIR NO_x
Sources (Repeal)
335-3-8-.18 CAIR Permits (Repeal)
335-3-8-.20 CAIR NO_x Allowance Allocations (Repeal)
335-3-8-.21 CAIR NO_x Allowance Tracking System (Repeal)
335-3-8-.22 CAIR NO_x Allowance Transfers (Repeal)
335-3-8-.23 CAIR Monitoring and Reporting (Repeal)
335-3-8-.24 CAIR NO_x Opt-in Units (Repeal)
335-3-8-.25 CAIR NO_x Ozone Season Trading Program (Repeal)
335-3-8-.26 CAIR Designated Representative for CAIR NO_x
Ozone Season Sources (Repeal)
335-3-8-.27 CAIR NO_x Ozone Season Permits (Repeal)
335-3-8-.29 CAIR NO_x Ozone Season Allowance Allocations
(Repeal)
335-3-8-.30 CAIR NO_x Ozone Season Allowance Tracking
System (Repeal)
335-3-8-.31 CAIR NO_x Ozone Season Allowance Transfers
(Repeal)
335-3-8-.32 CAIR NO_x Ozone Season Monitoring and Reporting
(Repeal)
335-3-8-.33 CAIR NO_x Ozone Season Opt-in Units (Repeal)

INTENDED ACTION: Revise Division 3 of the ADEM Administrative Code with the deletion of Rules 335-3-8-.05 (NO_x Budget Trading Program); 335-3-8-.06 (Authorized Account Representative for NO_x Budget Sources); 335-3-8-.07 (Permits); 335-3-8-.08 (Compliance Certification); 335-3-8-.09 (NO_x Allowance Allocations); 335-3-8-.10 (NO_x Allowance Tracking

System); 335-3-8-.11 (NO_x Allowance Transfers); 335-3-8-.12 (Monitoring and Reporting); 335-3-8-.13 (Individual Unit Opt Ins); 335-3-8-.16 (CAIR NO_x Annual Trading Program); 335-3-8-.17 (CAIR Designated Representative for CAIR NO_x Sources); 335-3-8-.18 (CAIR Permits); Rule 335-3-8-.20 (CAIR NO_x Allowance Allocations); 335-3-8-.21 (CAIR NO_x Allowance Tracking System); Rule 335-3-8-.22 (CAIR NO_x Allowance Transfers); 335-3-8-.23 (CAIR Monitoring and Reporting); Rule 335-3-8-.24 (CAIR NO_x Opt-in Units); 335-3-8-.25 (CAIR NO_x Ozone Season Trading Program); Rule 335-3-8-.26 (CAIR Designated Representative for CAIR NO_x Ozone Season Sources); Rule 335-3-8-.27 (CAIR NO_x Ozone Season Permits); Rule 335-3-8-.29 (CAIR NO_x Ozone Season Allowance Allocations); 335-3-8-.30 (CAIR NO_x Ozone Season Allowance Tracking System); Rule 335-3-8-.31 (CAIR NO_x Ozone Season Allowance Transfers); 335-3-8-.32 (CAIR NO_x Ozone Season Monitoring and Reporting); and 335-3-8-.33 (CAIR NO_x Ozone Season Opt-in Units). Rules 334-3-8-.14 (New Combustion Sources) and 334-3-8-.15 (Standards for New Combined Cycle Electric Generating Units) are being relocated to 335-3-8-.05 and 335-3-8-.06; respectively.

SUBSTANCE OF PROPOSED ACTION:

Revisions to the Division 3 Code are being proposed to delete Rules 335-3-8-.05; 335-3-8-.06; 335-3-8-.07; 335-3-8-.08; 335-3-8-.09; 335-3-8-.10; 335-3-8-.11; 335-3-8-.12; 335-3-8-.13; 335-3-8-.14; 335-3-8-.15; 335-3-8-.16; 335-3-8-.17; 335-3-8-.18; 335-3-8-.20; 335-3-8-.21; 335-3-8-.22; 335-3-8-.23; 335-3-8-.24; 335-3-8-.25; 335-3-8-.26; 335-3-8-.27; 335-3-8-.29; 335-3-8-.30; 335-3-8-.31; 335-3-8-.32; and 335-3-8-.33 in order to be consistent with Federal Rules. Rules 334-3-8-.14 (New Combustion Sources); and 334-3-8-.15 (Standards for New Combined Cycle Electric Generating Units) are being relocated to 335-3-8-.05 and 335-3-8-.06; respectively.

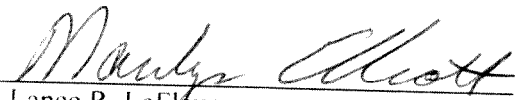
TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held 10:00 a.m., November 9, 2011, in the ADEM Hearing Room, 1400 Coliseum Blvd., Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: November 10, 2011.

CONTACT PERSON AT AGENCY:

Chris Howard (334) 271-7878


Lance R. LeFleur
Director

335-3-8-.09 REPEAL NO_x Allowance Allocations. Reserved.

~~(1) State Trading Program Budget. The State trading program budget allocated by the Department under paragraph (3) of this rule for a control period will equal the total number of tons of NO_x emissions apportioned to the NO_x Budget units under rule 335-3-8-.05(4) in the State for the control period, as determined by the applicable, approved State Implementation Plan.~~

~~(2) Timing Requirements for NO_x Allowance Allocations.~~

~~(a) By April 6, 2001, the Department will submit to the Administrator the NO_x allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2004, 2005, and 2006.~~

~~(b) By April 1, 2004 and April 1 of every third year thereafter (i.e. 2007, 2010, 2013, etc.), the Department will submit to the Administrator the NO_x allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in the three years that are three, four, and five years, respectively, after the year of the applicable deadline for submission under this subparagraph (b). If the Department fails to submit to the Administrator the NO_x allowance allocations in accordance with this subparagraph (b), the Administrator will allocate, for the applicable control periods, the same number of NO_x allowances as were allocated for the preceding control periods.~~

~~(3) NO_x Allowance Allocations.~~

~~(a) Definitions. For the purpose of this rule, the following definitions apply:~~

~~1. Baseline NO_x Budget Unit. A NO_x Budget unit that either:~~

~~(i) Commenced operation on or before May 1, 1999; or~~

~~(ii) Submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before October 2, 2000.~~

~~2. Replacement NO_x Budget Unit.~~

~~(i) A NO_x Budget unit, which replaces at the same facility, a Baseline NO_x budget unit with the same or less design heat input capacity; or~~

~~(ii) The portion of a NO_x Budget unit, which replaces at the same facility, a Baseline NO_x Budget unit with the same or less design heat input capacity.~~

~~3. New NO_x Budget Unit.~~

~~(i) A NO_x Budget unit that does not meet the definition of either Baseline NO_x Budget Unit or Replacement NO_x Budget Unit as defined in (3)(a)1. and (3)(a)2. of this rule; or~~

~~(ii) The portion of a NO_x Budget unit that does not meet the definition of either Baseline NO_x Budget Unit or Replacement NO_x Budget Unit as defined in (3)(a)1. and (3)(a)2. of this rule.~~

~~(b) Determination of Heat Input.~~

~~1. The heat input (in mmBtu) used for calculating NO_x allowance allocations under subparagraph (2)(a) of this rule will be:~~

~~(i) For a baseline NO_x Budget unit that commenced operation on or before May 1, 1999, the average of the two highest amounts of the unit's heat input for the control periods in 1997, 1998, and 1999; or~~

~~(ii) For a baseline NO_x Budget unit that did not commence operation on or before May 1, 1999 but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before October 2, 2000, the expected actual ozone season heat input based on actual utilization data of similar sources.~~

~~2. The heat input (in mmBtu) used for calculating NO_x allowance allocations under subparagraph (2)(b) of this rule that are to be submitted to the Administrator on April 1, 2004 will be:~~

~~(i) For a baseline or replacement NO_x Budget unit that commenced operation on or before May 1, 2001, the average of the two highest amounts of the unit's heat input for the control periods in 2001, 2002, and 2003; or~~

~~(ii) For a baseline or replacement NO_x Budget unit that did not commence operation on or before May 1, 2001 but did commence operation on or before May 1, 2002, the average heat input for the control periods in 2002 and 2003; or~~

~~(iii) For a baseline or replacement NO_x Budget unit that did not commence operation on or before May 1, 2002 but did commence operation on or before May 1, 2003, the heat input for the control period in 2003; or~~

~~(iv) For a replacement NO_x Budget unit that did not commence operation on or before May 1, 2003, the average of the two highest amounts of the heat inputs for the control periods in 2001, 2002, and 2003 for the baseline NO_x Budget unit that it replaced.~~

~~(v) For a new NO_x Budget unit that commenced operation on or before May 1, 2003, the average of the two highest amounts of the unit's heat input for the control periods in 2001, 2002, and 2003; or~~

~~(vi) For a new NO_x Budget unit that did not commence operation on or before May 1, 2003, the expected actual ozone season heat input based on actual utilization data of similar sources.~~

~~3. The heat input (in mmBtu) used for calculating NO_x allowance allocations under subparagraph (2)(b) of this rule that are to be submitted to the Administrator on April 1, 2007 and all subsequent years will be:~~

~~(i) For a baseline NO_x Budget unit, the average of the two highest amounts of the unit's heat input for the three most recent control periods (e.g. allocations calculated for submission to the Administrator on April 1, 2007 will be based on ozone season heat inputs from 2004, 2005, and 2006); or~~

~~(ii) For a replacement NO_x Budget unit, if the average of the two highest amounts of the unit's heat input for the three most recent control periods is less than or equal to the average of the two highest amounts of the ozone season heat inputs of the baseline NO_x Budget unit that it replaced during the last three control periods that it operated, the unit's calculated average ozone season heat input will be used; or~~

~~(iii) For a replacement NO_x Budget unit, if the average of the two highest amounts of the unit's heat input for the three most recent control periods is greater than the average of the two highest amounts of the ozone season heat inputs of the baseline NO_x Budget unit that it replaced during the last three control periods that it operated, the average of the two highest amounts of the ozone season heat inputs of the baseline NO_x Budget unit that it replaced during the last three control periods that it operated will be used; or~~

~~(iv) For a new NO_x Budget unit that commenced operation prior to or during the most recent control period, the average of the two highest amounts of the unit's heat input for the three most recent control periods; or~~

~~(v) For a new NO_x Budget unit that did not commence operation prior to or during the most recent control period, the expected actual ozone season heat input based on actual utilization data of similar sources.~~

~~4. The unit's total heat input for the control period in each year specified under subparagraph (a) of this paragraph will be determined in accordance with 40 CFR 75 if the NO_x Budget unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.~~

~~(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time NO_x allowances are initially allocated to baseline NO_x Budget units under subparagraph (e)1. of this paragraph, each unit's allocation will be permanently recorded as that unit's "Baseline Allowance". This value will be used to calculate the following:~~

~~1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time NO_x allowances are allocated under subparagraph (2)(b) of this rule and shall equal the sum of the Baseline Allowances for all baseline NO_x Budget units that have not retired in accordance with rule 335-3-8-.05(5).~~

~~2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time NO_x allowances are allocated under subparagraph (2)(b) of this rule and shall equal the sum of the Baseline Allowances for all NO_x Budget units that have retired in accordance with rule 335-3-8-.05(5).~~

~~(d) Adjustment Ratios. To ensure that the total number of NO_x allowances allocated under paragraph (3) of this rule equals the number of tons of NO_x emissions in the State trading program budget, the following ratios may be applied to the calculated NO_x allowance allocations as appropriate.~~

~~1. Baseline Adjustment Ratio. The Baseline Adjustment Ratio is the total number of NO_x allowances in the Baseline Allowance Pool divided by the total number of NO_x allowances calculated for baseline NO_x Budget units for a control period prior to any adjustments.~~

~~2. Alternate Baseline Adjustment Ratio. If there are no New NO_x Budget Units for which allocations must be calculated, the Alternate Baseline Adjustment Ratio is the total number of tons of NO_x emissions in the State trading program budget divided by the total number of NO_x allowances calculated for baseline and replacement NO_x Budget units for a control period prior to any adjustments.~~

~~(e) Calculation of NO_x Allowances for Baseline NO_x Budget Units.~~

~~1. For each control period under subparagraph (2)(a) of this rule, the Department will allocate NO_x allowances to all baseline NO_x Budget units in accordance with the following procedures:~~

~~(i) The Department will allocate NO_x allowances to each NO_x Budget unit under rule 335-3-8-.05(4)(a)1. in an amount equaling 0.15 lb/mmBtu, or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. of this paragraph, multiplied by the ratio of the total number of tons of NO_x emissions in the State trading program budget divided by the total number of NO_x allowances calculated for baseline NO_x Budget units for a control period prior to any adjustments, and then rounded to the nearest whole NO_x allowance as appropriate.~~

~~(ii) The Department will allocate NO_x allowances to each NO_x Budget unit under rule 335-3-8-.05(4)(a)2. in an amount equaling 0.17 lb/mmBtu or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. of this paragraph, multiplied by the ratio of the total number of tons of NO_x emissions in the State trading program budget divided by the total number of NO_x allowances calculated for baseline NO_x Budget units for a control period prior to any adjustments, and then rounded to the nearest whole NO_x allowance as appropriate.~~

~~2. For each control period under subparagraph (2)(b) of this rule, the Department will allocate NO_x allowances to all baseline NO_x Budget units in accordance with the following procedures:~~

~~(i) The Department will allocate NO_x allowances to each NO_x Budget unit under rule 335 3 8 .05(4)(a)1. in an amount equaling 0.15 lb/mmBtu or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio or, if no new NO_x Budget units have been identified at the time allocations are calculated, the Alternate Baseline Adjustment Ratio, and then rounded to the nearest whole NO_x allowance as appropriate. These NO_x allowances may be further adjusted in accordance with subparagraph (h) of this paragraph where necessary.~~

~~(ii) The Department will allocate NO_x allowances to each NO_x Budget unit under rule 335 3 8 .05(4)(a)2. in an amount equaling 0.17 lb/mmBtu or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio or, if no new NO_x Budget units have been identified at the time allocations are calculated, the Alternate Baseline Adjustment Ratio, and then rounded to the nearest whole NO_x allowance as appropriate. These NO_x allowances may be further adjusted in accordance with subparagraph (h) of this paragraph where necessary.~~

~~(f) Calculation of NO_x Allowances for Replacement NO_x Budget Units. For each control period under subparagraph (2)(b) of this rule, after calculating NO_x allowances for all baseline NO_x Budget units that have not retired in accordance with rule 335 3 8 .05(5), the Department will allocate NO_x allowances from the Retired Unit Allowance Pool to all replacement NO_x Budget units in accordance with the following procedures:~~

~~1. For each replacement NO_x Budget unit under rule 335 3 8 .05(4)(a)1. that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(b) of this rule, the number of NO_x allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio or, if no new NO_x Budget units have been identified at the time allocations are calculated, the Alternate Baseline Adjustment Ratio, and then rounded to the nearest whole NO_x allowance as appropriate. These NO_x allowances may be further adjusted in accordance with subparagraph (i) of this paragraph where necessary.~~

~~2. For each replacement NO_x Budget unit under rule 335 3 8 .05(4)(a)2. that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(b) of this rule, the number of NO_x allowances allocated for each applicable control~~

~~period will be equal to 0.17 lb/mmBtu, or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio or, if no new NO_x Budget units have been identified at the time allocations are calculated, the Alternate Baseline Adjustment Ratio, and then rounded to the nearest whole NO_x allowance as appropriate. These NO_x allowances may be further adjusted in accordance with subparagraph (i) of this paragraph where necessary.~~

~~(g) Calculation of NO_x Allowances for New NO_x Budget Units. For each control period under subparagraph (2)(b) of this rule, after calculating NO_x allowances for all baseline NO_x Budget units that have not retired in accordance with rule 335 3 8 .05(5) and calculating NO_x allowances for all replacement NO_x Budget Units, the Department will allocate NO_x allowances remaining in the Retired Unit Allowance Pool to all new NO_x Budget units in accordance with the following procedures:~~

~~1. For each new NO_x Budget unit under rule 335 3 8 .05(4)(a)1. that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(b) of this rule, the number of NO_x allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole NO_x allowance as appropriate. These NO_x allowances may be further adjusted in accordance with subparagraph (j) of this paragraph where necessary.~~

~~2. For each new NO_x Budget unit under rule 335 3 8 .05(4)(a)2. that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(b) of this rule, the number of NO_x allowances allocated for each applicable control period will be equal to 0.17 lb/mmBtu, or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole NO_x allowance as appropriate. These NO_x allowances may be further adjusted in accordance with subparagraph (j) of this paragraph where necessary.~~

~~(h) Adjustment of Baseline NO_x Allowance Allocations. If NO_x allowances remain in the Retired Unit Allowance Pool after allocations are made to all replacement and new NO_x Budget units in accordance with subparagraphs (f) and (g) of this paragraph, these NO_x allowances will be allocated on a pro rata basis to the baseline NO_x Budget units for the applicable control periods.~~

~~(i) Adjustment of Replacement NO_x Allowance Allocations. If the total number of calculated NO_x allowances allocated to all replacement NO_x Budget~~

~~units under subparagraph (f) of this paragraph exceeds the number of NO_x allowances in the Retired Unit Allowance Pool, each unit's allocation will be further adjusted by multiplying by the ratio of the number of NO_x allowances in the Retired Unit Allowance Pool divided by the total number of NO_x allowance allocations to all replacement NO_x Budget units under subparagraph (f) of this paragraph so that the number of NO_x allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted NO_x allowance allocations will be rounded to the nearest ton, as appropriate.~~

~~(j) Adjustment of New NO_x Allowance Allocations. If the total number of calculated NO_x allowances allocated to all new NO_x Budget units under subparagraph (f) of this paragraph exceeds the number of NO_x allowances remaining in the Retired Unit Allowance Pool after allocation to replacement NO_x Budget units, each unit's allocation will be further adjusted by multiplying by the ratio of the number of NO_x allowances remaining in the Retired Unit Allowance Pool after allocation to replacement NO_x Budget units divided by the total number of NO_x allowance allocations to new replacement NO_x Budget units under subparagraph (f) of this paragraph so that the total number of NO_x allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted NO_x allowance allocations will be rounded to the nearest ton, as appropriate.~~

~~(k) NO_x allowances allocated to baseline NO_x Budget units based on heat inputs determined in accordance with subparagraph (b)1.(ii) of this paragraph shall not be banked, as described under rule 335 3 8 .10(6), or transferred, as described under rule 335 3 8 .11, by the NO_x Budget unit to which the NO_x allowances were allocated if the unit does not commence operation prior to or during the control period for which NO_x allowances were allocated. The NO_x allowances will be transferred by the Department pro rata to baseline NO_x Budget units that were allocated NO_x allowances in accordance with subparagraphs (b)1.(i) of this paragraph. By November 1 of the same year, the Department shall notify the Administrator of the appropriate NO_x allowance transfers.~~

~~(l) NO_x allowances allocated to new NO_x Budget units based on heat inputs determined in accordance with subparagraphs (b)2.(vi) or (b)3.(v) of this paragraph shall not be banked, as described under rule 335 3 8 .10(6), or transferred, as described under rule 335 3 8 .11, by the NO_x Budget unit to which the NO_x allowances were allocated if the unit does not commence operation prior to or during the control period for which NO_x allowances were allocated. The NO_x allowances will be transferred by the Department pro rata to NO_x Budget units that were allocated NO_x allowances in accordance with subparagraphs (b)2.(i) through (v) or (b)3.(i) through (iv) of this paragraph. By November 1 of the same year, the Department shall notify the Administrator of the appropriate NO_x allowance transfers.~~

~~(m) NO_x allowances will not be allocated to NO_x Budget units that retire under 335 3 8 .05(5) prior to the date NO_x allowance allocations are submitted to the Administrator under subparagraphs (2)(a) or (2)(b).~~

~~(n) The total NO_x allowances allocated for any control period in accordance with subparagraphs 335 3 8 .09(3)(e), (f), and (g) shall not exceed the State Trading Program Budget as determined by the applicable, approved State Implementation Plan.~~

~~**Author:** Ronald W. Gore.~~

~~**Statutory Authority:** Code of Alabama 1975, §§22 28 10, 22 28 11, 22 28 14, 22 28 18, 22 28 20, 22 28 22, 22 22A 5, 22 22A 6, and 22 22A 8.~~

~~**History:** Effective Date: April 6, 2001.~~

~~**Amended:**~~