TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control	335 Department or Age.	ncy Environmental Management		
Rule No.	o. <u>335-3-827</u>			
Rule Title: CAIR NOx Ozone Season Permits				
***************************************	New Amend X Repe	al Adopt by Reference		
Would the a significantly welfare, or s	absence of the proposed rule y harm or endanger the public health, safety?	NO		
Is there a restate's police public healt	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? NO				
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 pro	oposed rule have an economic impact?	NO		
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, <u>Code of Alabama 1975</u> .				
******	***********	******		
	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 Maule Elhott				
Date Septe	mber 20, 2011	-		

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT AIR DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME:	Department of Environmental Management	
RULE NO. & TITLE:	335-3-805 335-3-806	NO _X Budget Trading Program (Repeal/New) Authorized Account Representative for NO _X Budget Sources (Repeal/New)
	335-3-807	Permits (Repeal)
	335-3-808	Compliance Certification (Repeal)
	335-3-809	NOx Allowance Allocations (Repeal)
	335-3-810	NO _x Allowance Tracking System (Repeal)
	335-3-811	NO _X Allowance Transfers (Repeal)
	335-3-812	Monitoring and Reporting (Repeal)
	335-3-813	Individual Unit Opt Ins (Repeal)
	335-3-814	New Combustion Sources (Repeal/New)
	335-3-815	Standards for New Combined Cycle Electric
		Generating Units (Repeal/New)
	335-3-816	CAIR NOx Annual Trading Program (Repeal)
	335-3-817	CAIR Designated Representative for CAIR NOx
		Sources (Repeal)
	335-3-818	<u>CAIR Permits</u> (Repeal)
	335-3-820	CAIR NOx Allowance Allocations (Repeal)
	335-3-821	CAIR NOx Allowance Tracking System (Repeal)
	335-3-822	CAIR NOx Allowance Transfers (Repeal)
	335-3-823	CAIR Monitoring and Reporting (Repeal)
	335-3-824	CAIR NOx Opt-in Units (Repeal)
	335-3-825	CAIR NOx Ozone Season Trading Program (Repeal)
	335-3-826	CAIR Designated Representative for CAIR NOx
	225 2 0 07	Ozone Season Sources (Repeal)
	335-3-827	CAIR NOx Ozone Season Permits (Repeal)
	335-3-829	CAIR NOx Ozone Season Allowance Allocations (Repeal)
	335-3-830	CAIR NOx Ozone Season Allowance Tracking System (Repeal)
	335-3-831	CAIR NOx Ozone Season Allowance Transfers
	335-3-832	(Repeal) <u>CAIR NOx Ozone Season Monitoring and Reporting</u> (Repeal)
	335-3-833	CAIR NOx 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 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-.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-.27 REPEAL CAIR NOx Ozone Season Permits. Reserved.

- (1) General CAIR NO_X Ozone Season Trading Program permit requirements.
- (a) For each CAIR NO_x Ozone Season source required to have a Title V operating permit, or required, under rule 335-3-8-33, to have a Title V operating permit or other federally enforceable permit, such permit shall include a CAIR permit administered by the Department. Any requirements of the CAIR permit shall be considered federally enforceable.
- 1. For CAIR NOx Ozone Season sources required to have a Title V operating permit, the CAIR portion of the Title V operating permit shall be administered in accordance with the procedures under chapter 335-3-16, except as provided otherwise by this rule, rule 335-3-8-25, or rule 335-3-8-33. The applicable provisions of such requirements shall include, but are not limited to, those provisions addressing operating permit applications, operating permit application shield, operating permit duration, operating permit shield, operating permit issuance, operating permit revision and reopening, public participation, State review, and review by the Administrator.
- (b) Each CAIR permit shall contain, with regard to the CAIR NO_x-Ozone Season source and the CAIR NO_x-Ozone Season units at the source covered by the CAIR permit, all applicable CAIR NO_x-Ozone Season Trading Program, CAIR NO_x-Annual Trading Program, and CAIR SO₂-Trading Program requirements and shall be a complete and separable portion of the Title V operating permit or other federally enforceable permit under subparagraph (1)(a) of this paragraph.

(2) Submission of CAIR permit applications.

- (a) <u>Duty to apply</u>. The CAIR designated representative of any CAIR NO_x Ozone Season source required to have a Title V operating permit or other federally enforceable permit shall submit to the Department a complete CAIR permit application under paragraph (3) of this rule for the source covering each CAIR NO_x Ozone Season unit at the source at least 18 months [or such lesser time provided under the Department's permit regulations in rule 335 3 16 for final action on a permit application] before the later of January 1, 2009 or the date on which the CAIR NO_x Ozone Season unit commences commercial operation, except as provided in rule 335 3 8 .33(4)(a).
- (b) <u>Duty to Reapply</u>. For a CAIR NO_x Ozone Season source required to have a Title V operating permit, the CAIR designated representative shall submit a complete CAIR permit application under paragraph (3) of this rule for the source covering each CAIR NO_x Ozone Season unit at the source to renew the CAIR permit in accordance with the Department's Title V operating permits regulations in chapter 335-3-16 addressing operating permit renewal, except as provided in rule 335-3-8.33(4)(b).
- (3) <u>Information requirements for CAIR permit applications</u>. A complete CAIR permit application shall include the following elements concerning the

CAIR NO_x Ozone Season source for which the application is submitted, in a format prescribed by the Department:

- (a) Identification of the CAIR NOx Ozone Season source;
- (b) Identification of each CAIR NO_x Ozone Season unit at the CAIR NO_x Ozone Season source; and
 - (c) The standard requirements under rule 335-3-8-.25(6).
 - (4) <u>CAIR permit contents and term.</u>
- (a) Each CAIR permit will contain, in a format prescribed by the Department, all elements required for a complete CAIR permit application under paragraph (3) of this rule.
- (b) Each CAIR permit is deemed to incorporate automatically the definitions of terms under rule 335-3-8.25(2) and, upon recordation by the Administrator under rule 335-3-8.30, 335-3-8.31, or 335-3-8.33, every allocation, transfer, or deduction of a CAIR NO_x Ozone Season allowance to or from the compliance account of the CAIR NO_x-Ozone Season source covered by the permit.
- (c) The term of the CAIR permit will be set by the Department, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO_X Ozone Season source's Title V operating permit as applicable.
- (5) <u>CAIR permit revisions</u>. Except as provided in subparagraph (4)(b) of this rule, the Department will revise the CAIR permit, as necessary, in accordance with the Department's Title V operating permits regulations in chapter 335-3-16 addressing permit revisions, as applicable.
- (a) For a CAIR NOx Ozone Season source with a non Title V permit, except as provided in subparagraph (4)(b) of this rule, the Department will revise the CAIR permit, as necessary, in accordance with the Department's permit regulations in chapter 335 3 16, as applicable.

Author: Ronald W. Gore.

Statutory Authority: <u>Code of Alabama</u> 1975, §§22 28 10, 22 28 11, 22 28 14, 22 28 16, 22 28 18, 22 28 20, 22 28 22, 22 22A 5, 22 22A 6, and 22 22A 8.

History: Effective Date: July 11, 2006.

Amended: April 3, 2007.