

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control Rule No. 335-3-11-.07 Department or Agency Environmental Management Rule Title: Appendices to 40 CFR 63

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 [Handwritten Signature]

Date 12-17-2012

Date Filed [Arrow pointing to box]

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-.07 Appendices to 40 CFR 63.**

- (1) Appendix A - Test Methods.
- (2) Appendix B - Sources Defined for Early Reduction Provisions.
- (3) Appendix C - Determination of the Fraction Biodegraded ( $F_{bio}$ ) in a Biological Treatment Unit.
- (4) Appendix D - Alternative Validation Procedure for EPA Waste and Wastewater Methods.
- (5) Appendix E - Monitoring Procedure for Nonthoroughly Mixed Open Biological Treatment System Systems at Kraft Pulp Mills Under Unsafe Sampling Conditions.

**Author:** Richard E. Grusnick.

**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: November 23, 1995.

**Amended:** November 21, 1996; September 25, 1997; November 19, 1998; July 15, 1999; January 13, 2000; March 14, 2002; March 30, 2010; May 23, 2011; 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.