

APA-1  
11/96

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management  
Rule No. 335-3-16-.15  
Rule Title: Permit Review by EPA, Affected States and Public

         New      X   Amend             Repeal             Adopt by Reference

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

         NO

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?

         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 proposed 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, Code of Alabama 1975.

\*\*\*\*\*

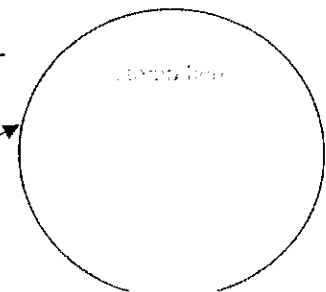
**Certification of Authorized Official**

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 *Marilyn Elliott*

Date 01-20-17

Date Filed



APA-2  
11/96

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
AIR DIVISION**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Environmental Management

**RULE NO. & TITLE:** Rule 335-3-16-.15 – Permit Review by EPA, Affected States and Public (Amend)

**INTENDED ACTION:** Revise Division 3 of the ADEM Administrative Code with the amendment of Rule 335-3-16-.15 (Permit Review by EPA, Affected States and Public).

**SUBSTANCE OF PROPOSED ACTION:**

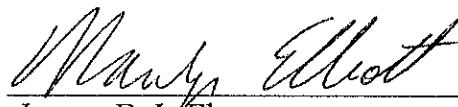
Rule 335-3-16-.15 is being revised to incorporate amendments to EPA public notice regulations that removed the mandatory requirement to provide public notice for draft permits (and certain other program actions) by newspaper publication and instead provides for electronic-notice (e-notice) of these actions.

**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., March 8, 2017, in ADEM Hearing Room, 1400 Coliseum Blvd., Montgomery, Alabama 36110.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:** March 10, 2017

**CONTACT PERSON AT AGENCY:** Larry Brown (334) 271-7878



Lance R. LeFleur  
Director

**335-3-16-15 Permit Review by EPA, Affected States and Public.**

(1) Transmission of information to EPA.

(a) The Department shall submit each application, each proposed permit and each final permit to EPA. The Department may require the applicant to submit a copy of its application directly to EPA. The Department also shall submit a copy of the draft permit to the applicant at the same time that EPA is sent a copy.

(b) Upon agreement with EPA, the Department may submit a summary of the application instead of the full application.

(c) The Department shall keep 5 years of records of the information sent to EPA that is required in subparagraph (a) of this paragraph.

(2) Review by affected states.

(a) The Department shall give notice to each affected state of each draft permit on or before public notice, unless public notice is not required.

(b) The Department shall respond in writing its reasons for refusing to accept an affected State's recommendations or for refusing to accept the Administrator's recommendations.

(3) EPA objection.

(a) If EPA objects in writing within 45 days of receipt of a proposed permit or prior to issuance of a final permit, the Department shall not issue the permit, except that the Department may issue a permit that is valid pursuant to Alabama's Air Pollution Control Act only. However, the Department shall advise the source that issuance of such permit shall not provide any protection from federal requirements.

(b) The objection must include the reasons for the objection and a description of the terms that the permit must include to respond to the objections. EPA must supply the applicant with a copy of the objection.

(c) Failure of the Department to do any of the following are also grounds for objection:

1. Comply with paragraphs (1) or (2) of this rule.
2. Submit any information requested by EPA in writing necessary to review the permit.
3. Process the permit under the significant permit modification procedures (unless the modification is minor).

(4) Public participation. Except for modifications qualifying for administrative or minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall use the following procedures for public notice:

(a) Notice shall be given ~~by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice~~ posted on the Department's web site for the duration of the public comment period and also to persons on a mailing transmitted to a list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list. The notice shall contain a link to the draft permit;

(b) The notice shall identify the affected facility; the name and address of the permittee; the address of the Department; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person (or an email or web site address) from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, monitoring and compliance certification report, except for information entitled to be kept confidential, and all other materials available to the Department that are relevant to the permit decision; a brief description of the comment procedures required by this chapter; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

(c) The Department shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing; and

(d) The Department shall keep a record of the comments made during the public participation process.

**Author:** Richard E. Grusnick.

**Statutory Authority:** Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

**History:** Effective Date: December 28, 1993.

**Amended:** November 21, 1996; XXXXXX, 2017.