

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
Rule No. 335-3-1-.02
Rule Title: Definitions

 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?

 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.

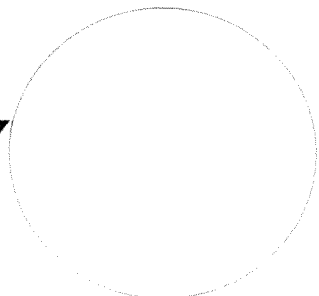
Certification of Authorized Official

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 05-20-2013

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 335-3-1-.02 – Definitions (Amend)

INTENDED ACTION: Revise Division 3 of the ADEM Administrative Code with the amendment of Rule 335-3-1-.02 (Definitions).

SUBSTANCE OF PROPOSED ACTION:

A revision to Rule 335-3-1-.02 is being revised to be consistent with EPA regulations of the definition of volatile organic compounds (VOC).

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., July 11, 2013, in the ADEM Hearing Room, 1400 Coliseum Blvd., Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: July 12, 2013

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



Lance R. LeFleur
Director

335-3-1-.02 Definitions.

(1) Meaning of Terms. As used in these rules and regulations, terms shall have the meanings ascribed in this rule.

(a) "Act" shall mean the Alabama Air Pollution Control Act of 1971, Act No. 769, Regular Session, 1971.

(b) "Adjudication" shall mean decisions, orders, decrees, determinations, or rulings by the Commission or its authorized Hearing officers and is specifically limited to decisions in regard to citations, Sections 17(e) and (f) of the Act, and variances, Section 12 of the Act.

(c) "Adjudication Hearing" shall mean a hearing held before the Commission or its authorized Hearing Officer, pursuant to the issuance of a citation(s), Section 17(e) and (f) of the Act, and variances, Section 12 of the Act, for the purpose of establishing a record and a set of recommendations to provide the basis for an adjudication by the Commission of a contested case.

(d) "Air Contaminant" shall mean any solid, liquid, or gaseous matter, any odor, or any combination thereof, from whatever source.

(e) "Air Pollution" shall mean the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life, or property, or would interfere with the enjoyment of life or property throughout the State and in such territories of the State as shall be affected thereby.

(f) "Air Pollution Emergency" shall mean a situation in which meteorological conditions and/or contaminant levels in the ambient air reach or exceed the levels which may cause imminent and substantial endangerment to health.

(g) "Air Quality Control Region" shall mean jurisdictional areas designated in 40 CFR 81.

(h) "Capture System" shall mean the equipment (including hoods, ducts, fans, etc.) used to contain, capture, or transport a pollutant to a control device.

(i) "Chairman" shall mean the Chairman or, in his absence, the Vice Chairman of the Commission.

(j) "Citation" shall mean a notice sent by the Commission or its authorized agent (to suspected violators of the Act) pursuant to Section 17(e).

(k) "Coating" shall mean a protective, decorative, or functional film applied in a thin layer to a surface substrate.

(l) "Coating Applicator" shall mean an apparatus used to apply a surface coating.

(m) "Coating Line" shall mean one or more apparatus or operations which may include any number or combination of coating applicators, flash-off areas, and ovens wherein a surface coating is applied, dried, and/or cured.

(n) "Commenced" shall mean that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(o) "Commission" shall mean the "Environmental Management Commission".

(p) "Construction" shall mean fabrication, erection, or installation of an affected facility.

(q) "Continuous Vapor Control System" shall mean a vapor control system that treats vapors displaced from tanks during filling on a demand basis without intermediate accumulation.

(r) "Control Device" shall mean any device which has the function of controlling the emissions from a process, fuel-burning, or refuse-burning device and thus reduces the creation of or the emission of air contaminants into the atmosphere, or both.

(s) "Control Regulation" shall mean a legally enforceable emission control strategy.

(t) "Control Strategy" shall mean a collection of various emission standards selected for the different categories of sources.

(u) "County Classification" shall mean the designation Class 1 County or Class 2 County. All facilities, plants, or other installations shall be subject to the restrictions on air pollution emissions specific to the county classification of the county in which they are located.

1. A "Class 2 County" shall mean a county in which:

(i) More than 50 percent of the county population resides in a non-urban place, as defined by the U.S. Department of Commerce Census Bureau for 1970.

(ii) No secondary National Ambient Air Quality Standards are being exceeded, based on 1971 air quality measurements.

2. A "Class 1 County" shall mean a county in which the conditions of either subparagraph 1.(i) or 1.(ii) above or both are not met.

(v) "Day" shall mean a twenty-four (24) hour period beginning at midnight.

(w) "Department" shall mean the Alabama Department of Environmental Management.

(x) "Director" shall mean the Director of the Department of Environmental Management.

(y) "Effluent Water Separator" shall mean any tank, box, sump, or other container in which any volatile organic compound floating on or entrained or contained in water entering such tank, box, sump, or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

(z) "Emission" shall mean a release into the outdoor atmosphere of air contaminants.

(aa) "Employee" shall mean any employee of the Commission or Division.

(bb) "Existing Source" shall mean any source in operation or on which construction has commenced on the date of initial adoption of an applicable rule or regulation; except that any existing source which has undergone modification after the date of initial adoption of an applicable rule or regulation, shall be reclassified and considered a new source.

(cc) "Federal Act" shall mean the Clean Air Act (42 U.S.C. 1857 et seq.) as last amended, and as may hereafter be amended.

(dd) "Flash-Off Area" shall mean the space between the application area and the oven.

(ee) "Fuel-Burning Equipment" shall mean any equipment, device, or contrivance and all appurtenances thereto, including ducts, breechings, fuel-feeding equipment, ash removal equipment, combustion controls, stacks, and chimney, used primarily, but not exclusively, to burn any fuel for the purpose of indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion.

(ff) "Fugitive Dust" shall mean solid air-borne particulate matter emitted from any source other than a flue or stack.

(gg) "Gasoline" shall mean a petroleum distillate having a Reid vapor pressure of 27.6 kPa (4 psia) or greater and used as a fuel for internal combustion engines.

(hh) "Heat Available" shall mean the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks.

(ii) "Hydrocarbons" shall mean any organic compound of carbon and hydrogen only.

(jj) "Incinerator" shall mean any equipment, device, or contrivance and all appurtenances thereof used for the destruction (by burning) of solid, semi-solid, liquid, or gaseous combustible wastes.

(kk) "Intermediate Vapor Control System" shall mean a vapor control system that employs an intermediate vapor holder to accumulate vapors displaced from tanks during filling. The control device treats the accumulated vapors only during automatically controlled cycles.

(ll) "Loading Rack" shall mean an aggregation or combination of gasoline loading equipment arranged so that all loading outlets in the combination can be connected to a tank truck or trailer parked in a specified loading space.

(mm) "Maximum Process Weight Per Hour" shall mean the equipment manufacturer's or designer's guaranteed maximum (whichever is greater) process weight per hour.

(nn) "Model Year" shall mean the annual production period of new motor vehicles designated by the calendar year in which such period ends, provided that if the manufacturer does not so designate vehicles manufactured by him, the model year with respect to such vehicle shall mean the twelve-month period beginning January 1 of the year specified herein.

(oo) "Modification" shall mean any physical change in, or change in the method of operation of, an affected source which increases the amount of any air contaminant (to which a rule or regulation applies) emitted by such source or which results in the emission of any air contaminant (to which a rule or regulation applies) not previously emitted, except that:

1. Routine maintenance, repair, and replacement shall not be considered physical changes, and

2. The following shall not be considered a change in the method of operation:

- (i) An increase in the production rate;
- (ii) An increase in hours of operation;
- (iii) Use of an alternative fuel or raw material.

(pp) "Motor Vehicle" shall mean every self-propelled device in or upon or by which any person or property is, or may be, transported or drawn upon a public highway.

(qq) "New Source" shall mean any source built or installed on or after the date of initial adoption of an applicable rule or regulation, and any source existing at said stated time which later undergoes modification. Any source

moved to another premise involving a change of location after the date of initial adoption of an applicable rule or regulation shall be considered a new source. This definition of new source is not applicable to ADEM Admin. Code rules 335-3-10-.01(3) and 335-3-11-.01(3).

(rr) "Objector" shall mean any person who objects to the granting of a variance pursuant to Section 12(d) of the Act.

(ss) "Odor" shall mean smells or aromas which are unpleasant to persons or which tend to lessen human food and water intake, interfere with sleep, upset appetite, produce irritation of the upper respiratory tract, or cause symptoms or nausea, or which by their inherent chemical or physical nature or method or processing are, or may be, detrimental or dangerous to health. Odor and smell are used interchangeably herein.

(tt) "Opacity" shall mean the degree to which emissions reduce the transmission of light and obscure the view of the background.

(uu) "Open Burning" shall mean the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack, duct, or chimney.

(vv) "Operating Time" shall mean the number of hours per year that a source conducts operations.

(ww) "Organic Material" shall mean a chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

(xx) "Oven" shall mean a chamber within which heat is used to bake, cure, polymerize, and/or dry a surface coating.

(yy) "Owner or Operator" shall mean any person who owns, leases, operates, controls, or supervises an affected facility, article, machine, equipment, other contrivance, or source.

(zz) "Particulate Matter" shall mean finely divided material, except uncombined water, which is a liquid or solid at the conditions of the applicable test method.

(aaa) "Party" shall mean the petitioner(s) for variance under Section 12 of the Act, the person(s) objecting to the grant of a variance petition under Section 12 of the Act, the alleged violator in the case of a citation issued pursuant to Section 17(e) of the Act, and the State.

(bbb) "Petitioner" shall mean any person who petitions the Commission pursuant to Section 12 of the Act and in accordance with rule 335-3-1-.09 of the Rules and Regulations.

(ccc) "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR 50, Appendix J, and designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53.

(ddd) "PM₁₀ Emission" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified in 40 CFR.

(eee) "Prime Coat" shall mean the first film of coating applied in a multiple coat operation.

(fff) "Priority Classification" shall mean Air Quality Control Region Pollutant Priority Classifications set forth in 40 CFR 52.

(ggg) "Process" shall mean any action, operation, or treatment of materials, including handling and storage thereof, which may cause discharge of an air contaminant or contaminants into the atmosphere, but excluding fuel burning and refuse burning.

(hhh) "Process Weight" shall mean the total weight in pounds of all materials introduced into any specific process which may cause any discharge into the atmosphere.

(iii) "Process Weight Per Hour" shall mean the total weight of all materials introduced into any specific process that may cause any discharge of particulate matter. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. For a cyclical or batch operation, the process weight per hour will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle. For a continuous operation, the process weight per hour will be derived by dividing the process weight for a typical period of time by that time period.

(jjj) "Refuse" shall mean matter consisting of garbage, rubbish, ashes, street debris, dead animals, abandoned vehicles, industrial wastes, demolition wastes, construction wastes, special wastes, or sewage treatment residue.

(kkk) "Reid Vapor Pressure" shall mean a vapor pressure specification for volatile organic crude oil and volatile nonviscous petroleum liquids except liquid petroleum gases as determined by American Society for Testing and Materials. The pressure approximates the absolute vapor pressure of the liquid.

(lll) "Shutdown" shall mean the cessation of operation of affected source or emission control equipment.

(mmm) "Six-Minute Average" shall be determined by calculating the arithmetic mean of twenty-four (24) consecutive opacity observations, taken at intervals of fifteen (15) seconds.

(nnn) "Smoke" shall mean gas-borne particles resulting from incomplete combustion consisting predominantly, but not exclusively, of carbon, ashes, or other combustible materials.

(ooo) "Soiling Index" shall mean a measure of the soiling properties of total suspended particulates in air determined by drawing a measured volume of air through a known area of Whatman No. 4 filter paper for a measured period of time, expressed as COHs/1,000 linear feet.

(ppp) "Solvent" shall mean organic materials which are liquid at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.

(qqq) "Source" shall mean any building, structure, facility, installation, article, machine, equipment, device, or other contrivance which emits or may emit any air contaminant. Any activity which utilizes abrasives or chemicals for cleaning or any other purpose (such as cleaning the exterior of buildings) which emits air contaminants shall be considered a source.

(rrr) "Stack or Ducts" shall mean any flue, duct, or other contrivance arranged to conduct emissions to the open air.

(sss) "Standard Conditions" shall mean a temperature of 20°C (68°F) and pressure of 760 millimeters of mercury (29.92 inches of mercury).

(ttt) "Startup" shall mean the setting in operation of an affected source for any purpose.

(uuu) "State" shall mean the State of Alabama, the Environmental Management Commission, and the Commission's representatives.

(vvv) "Storage Tank Capacity" shall mean the tank manufacturer's design capacity. Storage tank and storage vessel shall be equivalent in meaning.

(www) "Submerged Fill Pipe" shall mean any fill pipe, the discharge opening of which is entirely submerged when the liquid level is six (6) inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe, of which the top of the discharge opening is not over 18 inches from the bottom of the tank.

(xxx) "Topcoat" shall mean the final film of coating applied in a multiple coat operation.

(yyy) "Total Reduced Sulfur (TRS)" shall mean hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present.

(zzz) "Total suspended particulate" means particulate matter as measured by the method described in 40 CFR 50, Appendix B.

(aaaa) "Transfer Efficiency (TE)" shall mean the efficiency of a surface coating application system to deposit coating solids on a substrate. The transfer efficiency of an application system is determined by dividing the volume of coating solids deposited on a substrate by the total volume of coating solids used.

(bbbb) "True Vapor Pressure" shall mean the equilibrium partial pressure exerted by a stored petroleum liquid at the temperature equal to the highest calendar-month average of the liquid storage temperature as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from External Floating Roof Tanks," 1962, Second Edition, February 1980.

(cccc) "Uncombined Water" shall mean any water droplets or water vapor condensate that does not contain any other solid or liquid particulate matter attached to the water droplets.

(dddd) "Vapor Collection System" shall mean a vapor transport system which uses direct displacement by the liquid loaded to force vapors from the tank into a vapor control system.

(eeee) "Vapor Recovery System" shall mean a system that prevents release to the atmosphere of at least 90 percent by weight of organic compounds in the vapor displaced from a tank during the transfer of gasoline.

(ffff) "Violator" shall mean any person who is issued a citation by the Commission or its authorized agent pursuant to Section 17(e) and (f) of the Act.

(gggg) "Volatile Organic Compounds (VOC)" shall mean any compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any such organic compound **other than the following**:

1. Methane;
2. Ethane;
3. Methyl Chloroform (1,1,1 Trichloroethane);
4. Methylene Chloride (Dichloromethane);
5. CFC-11 (Trichlorofluoromethane);
6. CFC-12 (Dichlorodifluoromethane);
7. HCFC-22 (Chlorodifluoromethane);
8. HFC-23 (Trifluoromethane);
9. CFC-114 (1,2-dichloro-1,1,2,2-Tetrafluoroethane);
10. CFC-115 (Chloropentafluoroethane);
11. HCFC-123 (1,1,1-Trifluoro-2,2-dichloroethane);
12. HCFC-124 (2-Chloro-1,1,1,2-tetrafluoroethane);

13. HFC-125 (Pentafluoroethane);
14. HFC-134 (1,1,2,2-Tetrafluoroethane);
15. HFC-134a (1,1,1,2-Tetrafluoroethane);
16. HCFC-141b (1,1-Dichloro-1-fluoroethane);
17. HCFC-142b (1-Chloro-1,1-difluoroethane);
18. HFC-143a (1,1,1-Trifluoroethane);
19. HFC-152a (1,1-Difluoroethane);
20. CFC-113 (1,1,2-Trichloro-1,2,2-Trifluoroethane);
21. Parachlorobenzotrifluoride (PCBTF);
22. Cyclic, branched, or linear completely methylated siloxanes;
23. Acetone;
24. Perchloroethylene (tetrachloroethylene);
25. HCFC-225ca (3,3-dichloro-1,1,1,2,2-pentafluoropropane);
26. HCFC-225cb (1,3-dichloro-1,1,2,2,3-pentafluoropropane);
27. HFC 43-10mee (1,1,1,2,3,4,4,5,5,5-decafluoropentane);
28. HFC-32 (Difluoromethane);
29. HFC-161 (Ethylfluoride);
30. HFC-236fa (1,1,1,3,3,3-Hexafluoropropane);
31. HFC-245ca (1,1,2,2,3-Pentafluoropropane);
32. HFC-245ea (1,1,2,3,3-Pentafluoropropane);
33. HFC-245eb (1,1,1,2,3-Pentafluoropropane);
34. HFC-245fa (1,1,1,3,3-Pentafluoropropane);
35. HFC-236ea (1,1,1,2,3,3-Hexafluoropropane);
36. HFC-365mfc (1,1,1,3,3-Pentafluorobutane);
37. HCFC-31 (Chlorofluoromethane);
38. HCFC-123a (1,2-Dichloro-1,1,2-trifluoroethane);
39. HCFC-151a (1-Chloro-1-fluoroethane);
40. $C_4F_9OCH_3$ (1,1,1,2,2,3,3,4,4-Nonafluoro-4-methoxybutane);
41. $(CF_3)_2CFCH_2OCH_3$ (2-(Difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane);
42. $C_4F_9OC_2H_5$ (1-Ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane);
43. $(CF_3)_2CFCH_2OC_2H_5$ (2-(Ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane);
44. Methyl Acetate;
45. HFE-7000, $n-C_3F_7OCH_3$, (~~$n-C_3F_7OCH_3$~~ , 1,1,1,2,2,3,3,-heptafluoro-3 methoxy-propane;
46. HFE-7500 (3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane);
47. HFC-227ea (1,1,1,2,3,3,3-heptafluoropropane);
48. methyl formate ($HCOOCH_3$);
49. HFE-7300 (1,1,1,2,2,3,4,5,5,5,-decafluoro-3-methoxy-4-trifluoromethyl-pentane) (~~HFE-7300~~);
50. propylene carbonate;
51. dimethyl carbonate; and

52. HFE-134 (HCF₂OCF₂H);

53. HFE-236cal2 (HCF₂OCF₂OCF₂H);

54. HFE-338pcc13 (HCF₂OCF₂CF₂OCF₂H);

55. H-Galden 1040x or H-Galden ZT130 (or 150 or 180)
(HCF₂OCF₂OCF₂OCF₂H);

54-56. Solstice™ 1233zd (E) (*trans* 1-chloro-3,3,3-trifluoroprop-1-ene); and

52-57. Perfluorocarbon compounds which fall into these classes:

(i) Cyclic, branched, or linear, completely fluorinated alkanes;

(ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(2) The heretofore mentioned excluded organic compounds have been determined to have negligible photochemical reactivity by the EPA Administrator. For purposes of determining compliance with emission limits under chapter 335-3-6, VOC shall be measured by the approved test methods contained in chapter 335-3-6. Where such a method also inadvertently measures the heretofore mentioned negligibly photochemical reactive organic compounds with the reactive organic compounds, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emission limit using EPA-approved test methods and procedures.

(3) The following compound(s) are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

Author: James W. Cooper and John E. Daniel.

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

History: Effective Date: January 18, 1972.

Amended: Effective Date: September 24, 1974; November 27, 1978; April 3, 1979; June 5, 1979; July 26, 1979; June 16, 1988; September 21, 1989; November 1, 1990; October 24, 1991; November 23, 1995; January 5, 1996; November 21, 1996; September 25, 1997; March 27, 1998; November 19, 1998; September 7, 2000; December 12, 2005; January 22, 2008; March 30, 2010; XXXXXX, 2013.