

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management

Rule No. 335-8-1-.10

Rule Title: Review Process for Federal Projects, Activities and Assistance

 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 November 18, 2011

Date Filed 

APA-2
11/96

**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
FIELD OPERATIONS DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE: 335-8-1-.09 Review Process for Federally Regulated Activities
335-8-1-.10 Review Process for Federal Projects, Activities
and Assistance

INTENDED ACTION: Revise Division 8 of the ADEM Administrative Code to be consistent with Federal Rules.

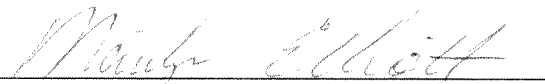
SUBSTANCE OR PROPOSED ACTION: Revisions to the Division 8 Code are being proposed to make a Routine Program Change and regulation changes to be consistent with Federal Rules.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held January 4, 2012 at 10:00 a.m. in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: January 6, 2012

CONTACT PERSON AT AGENCY: Mike Sherman (334) 394-4316



Lance R. LeFleur
Director

335-8-1-10 Review Process for Federal Projects, Activities and Assistance.

(1) Pursuant to 15 C.F.R. Part 930, Subpart C, functions performed by or on behalf of a federal agency in the exercise of its statutory responsibilities and development projects undertaken by or on behalf of the federal agency involving the planning, construction, modification, or removal of public works, facilities, or other structures, in the acquisition, utilization, or disposal of land or water resources which affect the coastal area are required to be undertaken in a manner consistent, to the maximum extent practicable, with the management program. The Department shall review and respond to federal agency consistency determinations in accordance with the provisions of 15 C.F.R. Part 930, Subpart C.

(a) Federal activities which are subject to review, and are listed pursuant to 15 C.F.R. Part 930, Subpart C, include, but are not limited to, the following:

1. Property acquisition or disposal within the coastal area;
2. Discharge of wastes into the air or waters of the coastal area;
3. Road construction within the coastal area;
4. Disposition, design, construction, alteration or maintenance of any facilities on lands located within the coastal area;
5. Programs related to management of coastal resources;
6. Activities affecting water quality or quantity;
7. Transport of hazardous substances; and
8. Other activities that could affect coastal resources due to their size, location, or manner of construction.

~~(b) Upon notification of a proposed federal project or activity the Department will initiate appropriate interagency coordination and identify additional information needs.~~

~~(c) Within 15 days of receipt of the federal agency's determination of consistency, the Department will:~~

- ~~1. agree with the federal agency's determination; or~~
- ~~2. disagree to the federal agency's determination; or~~
- ~~3. request, in writing, an extension not to exceed 15 days.~~

(2) Pursuant to 15 C.F.R. Part 930, Subpart F, assistance provided under a federal program to any unit of state or local government, or any related public entity such as a special purpose district, through grant or contractual

arrangements, loans, subsidies, guarantees, insurance, or other form of financial aid for activities affecting the coastal area, are required to be consistent with the management program. The Department shall review and respond to applications from applicant agencies for federal assistance in accordance with the provisions of 15 C.F.R. Part 930, Subpart F.

(a) The types of federal assistance programs subject to review, and listed pursuant to 15 C.F.R. §§ 930.95 include, but are not limited to, the following:

1. Grants or loans by the U.S. Department of Agriculture, Farmers Home Administration;
2. Housing development grants by the U.S. Department of Housing and Urban Development;
3. Grants by the U.S. Department of Transportation, Federal Aviation Administration;
4. Grants or loans from the Land and Water Construction Fund by the U.S. Department of the Interior;
5. Grants or loans by the U.S. Department of Commerce for public works and development;
6. Community development block grants by the U.S. Department of Housing and Urban Development;
7. Sewage treatment construction grants or loans made directly by capitalization grants from the U.S. Environmental Protection Agency; and
8. Urban development actions grants by the U.S. Department of Housing and Urban Development.

~~(b) At the earliest practical time the Department will provide the applicant agency with one of the following:~~

- ~~1. an approval of the project, with or without conditions; or~~
- ~~2. a letter of objection to the project.~~

Author: John C. Carlton; Michael Sherman.

Statutory Authority: Code of Alabama 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.

History: (effective date) June 30, 1994; XXXXXXX.