

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-3-8-.07
Rule Title: Permits

New 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 September 20, 2011

Date Filed 

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME:

Department of Environmental Management

RULE NO. & TITLE:

335-3-8-.05 NO_x Budget Trading Program (Repeal/New)
335-3-8-.06 Authorized Account Representative for NO_x Budget
Sources (Repeal/New)
335-3-8-.07 Permits (Repeal)
335-3-8-.08 Compliance Certification (Repeal)
335-3-8-.09 NO_x Allowance Allocations (Repeal)
335-3-8-.10 NO_x Allowance Tracking System (Repeal)
335-3-8-.11 NO_x Allowance Transfers (Repeal)
335-3-8-.12 Monitoring and Reporting (Repeal)
335-3-8-.13 Individual Unit Opt Ins (Repeal)
335-3-8-.14 New Combustion Sources (Repeal/New)
335-3-8-.15 Standards for New Combined Cycle Electric
Generating Units (Repeal/New)
335-3-8-.16 CAIR NO_x Annual Trading Program (Repeal)
335-3-8-.17 CAIR Designated Representative for CAIR NO_x
Sources (Repeal)
335-3-8-.18 CAIR Permits (Repeal)
335-3-8-.20 CAIR NO_x Allowance Allocations (Repeal)
335-3-8-.21 CAIR NO_x Allowance Tracking System (Repeal)
335-3-8-.22 CAIR NO_x Allowance Transfers (Repeal)
335-3-8-.23 CAIR Monitoring and Reporting (Repeal)
335-3-8-.24 CAIR NO_x Opt-in Units (Repeal)
335-3-8-.25 CAIR NO_x Ozone Season Trading Program (Repeal)
335-3-8-.26 CAIR Designated Representative for CAIR NO_x
Ozone Season Sources (Repeal)
335-3-8-.27 CAIR NO_x Ozone Season Permits (Repeal)
335-3-8-.29 CAIR NO_x Ozone Season Allowance Allocations
(Repeal)
335-3-8-.30 CAIR NO_x Ozone Season Allowance Tracking
System (Repeal)
335-3-8-.31 CAIR NO_x Ozone Season Allowance Transfers
(Repeal)
335-3-8-.32 CAIR NO_x Ozone Season Monitoring and Reporting
(Repeal)
335-3-8-.33 CAIR NO_x 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 Tracking System); Rule 335-3-8-.31 (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-.30; 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-.07 REPEAL Permits, Reserved.

~~(1) General NO_x Budget trading program permit requirements.~~

~~(a) For each NO_x Budget source required to have an enforceable permit, such permit shall include a NO_x Budget permit administered by the Department. Any requirements of the NO_x Budget permit shall be considered federally enforceable.~~

~~1. For NO_x Budget sources required to have a major source operating permit, the NO_x Budget portion of the major source operating permit shall be administered in accordance with the Department's major source operating permits regulations promulgated under chapter 335-3-16, except as provided otherwise by this rule or rule 335-3-8-.13. The applicable provisions of such major source operating permits regulations 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.~~

~~2. For NO_x Budget sources required to have a non title V permit, the NO_x Budget portion of the permit shall be administered in accordance with chapter 335-3-14 or 335-3-15, except as provided otherwise by this rule or rule 335-3-8-.13. The applicable provisions of such permit regulations may include, but are not limited to, provisions addressing permit applications, permit issuance, permit revision and reopening, public participation, and review by the Administrator.~~

~~(b) Each NO_x Budget permit (including a draft or proposed NO_x Budget permit, if applicable) shall contain all applicable NO_x Budget Trading Program requirements and shall be a complete and segregable portion of the permit under subparagraph (a) of this paragraph.~~

~~(2) Submission of NO_x Budget permit applications.~~

~~(a) Duty to apply. The NO_x authorized account representative of any NO_x Budget source required to have an enforceable permit shall submit to the Department a complete NO_x Budget permit application under paragraph (3) of this rule by the applicable deadline in subparagraph (b) or (c) below.~~

~~(b) For NO_x Budget sources required to have a major source operating permit:~~

~~1. For any source, with one or more NO_x Budget units under rule 335-3-8-.05(4) that commenced operation before January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under paragraph (3) of this rule covering such NO_x Budget units to the Department at least 18 months (or such lesser time provided under chapter 335-3-16 for final action on a permit application) before May 31, 2004.~~

~~2. For any source, with any NO_x Budget unit under rule 335-3-8-.05(4) that commences operation on or after January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under paragraph (3) of this rule covering such NO_x Budget unit to the Department at least 18 months (or such lesser time provided under chapter 335-3-16 for final action on a permit application) before the later of May 31, 2004 or the date on which the NO_x Budget unit commences operation.~~

~~(c) For NO_x Budget sources required to have a non-title V permit:~~

~~1. For any source, with one or more NO_x Budget units under rule 335-3-8-.05(4) that commenced operation before January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under paragraph (3) of this rule covering such NO_x Budget units to the Department at least 18 months (or such lesser time provided under the Department's permit regulations in chapter 335-3-14 or 335-3-15 for final action on a permit application) before May 31, 2004.~~

~~2. For any source, with any NO_x Budget unit under rule 335-3-8-.05(4) that commenced operation on or after January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under paragraph (3) of this rule covering such NO_x Budget unit to the Department at least 18 months (or such lesser time provided under the Department's permit regulations in chapter 335-3-14 or chapter 335-3-15 for final action on a permit application) before the later of May 31, 2004 or the date on which the NO_x Budget unit commences operation.~~

~~(d) Duty to reapply. For a NO_x Budget source required to have a major source operating permit, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under paragraph (3) of this rule for the NO_x Budget source covering the NO_x Budget units at the source in accordance with the Department's major source operating permits regulations in chapter 335-3-16 addressing operating permit renewal.~~

~~(3) Information requirements for NO_x Budget permit applications. A complete NO_x Budget permit application shall include the following elements concerning the NO_x Budget source for which the application is submitted, in a format prescribed by the Department:~~

~~(a) Identification of the NO_x Budget source, including plant name and the ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration, if applicable;~~

~~(b) Identification of each NO_x Budget unit at the NO_x Budget source and whether it is a NO_x budget unit under rules 335-3-8-.05(4) or 335-3-8-.13;~~

~~(c) The standard requirements under rule 335-3-8-.05(6); and~~

~~(d) For each NO_x Budget opt in unit at the NO_x Budget source, the following certification statements by the NO_x authorized account representative:~~

~~1. "I certify that each unit for which this permit application is submitted under rule 335 3 8 .13 is not a NO_x Budget unit under rule 335 3 8 .05(4) and is not covered by a retired unit exemption under rule 335 3 8 .05(5) that is in effect."~~

~~2. If the application is for an initial NO_x Budget opt in permit, "I certify that each unit for which this permit application is submitted under rule 335 3 8 .13 is currently operating, as that term is defined under rule 335 3 8 .05(2)."~~

~~(4) NO_x Budget permit contents.~~

~~(a) Each NO_x Budget permit (including any draft or proposed NO_x Budget permit, if applicable) will contain, in a format prescribed by the Department, all elements required for a complete NO_x Budget permit application under paragraph (3) of this rule.~~

~~(b) Each NO_x Budget permit is deemed to incorporate automatically the definitions of terms under rule 335 3 8 .05(2) and, upon recordation by the Administrator under rules 335 3 8 .10, 335 3 8 .11, or 335 3 8 .13 of this Division, every allocation, transfer, or deduction of a NO_x allowance to or from the compliance accounts of the NO_x Budget units covered by the permit or the overdraft account of the NO_x Budget source covered by the permit.~~

~~(5) Effective date of initial NO_x Budget permit. The initial NO_x Budget permit covering a NO_x Budget unit for which a complete NO_x Budget permit application is timely submitted under subparagraph (2)(b) or 2(c) of this rule shall become effective by the later of:~~

~~(a) May 31, 2004;~~

~~(b) May 1 of the year in which the NO_x Budget unit commences operation, if the unit commences operation on or before May 1 of that year;~~

~~(c) The date on which the NO_x Budget unit commences operation, if the unit commences operation during a control period; or~~

~~(d) May 1 of the year following the year in which the NO_x Budget unit commences operation, if the unit commences operation on or after October 1 of the year.~~

~~(6) NO_x Budget permit revisions.~~

~~(a) For a NO_x Budget source with a major source operating permit, except as provided in subparagraph (4)(b) of this rule, the Department will revise the NO_x Budget permit, as necessary, in accordance with the Department's major source operating permits regulations in chapter 335 3 16 addressing permit revisions.~~

~~(b) For a NO_x Budget source with a non title V permit, except as provided in subparagraph (4)(b) of this rule, the Department will revise the NO_x~~

~~Budget permit, as necessary, in accordance with the Department's permit regulations in chapter 335-3-14 or 335-3-15, as applicable.~~

~~**Author:** Ronald W. Gore.~~

~~**Statutory Authority:** Code of Alabama 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: April 6, 2001.~~

~~**Amended:**~~