

APA-1  
11/96

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management  
Rule No. 335-3-8-.18  
Rule Title: CAIR Permits

         New          Amend   X   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         

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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.

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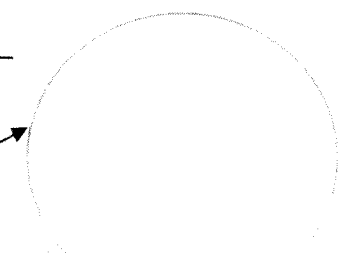
Certification of Authorized Official

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 Ellett

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<sub>x</sub> Budget Trading Program (Repeal/New)  
335-3-8-.06 Authorized Account Representative for NO<sub>x</sub> Budget  
Sources (Repeal/New)  
335-3-8-.07 Permits (Repeal)  
335-3-8-.08 Compliance Certification (Repeal)  
335-3-8-.09 NO<sub>x</sub> Allowance Allocations (Repeal)  
335-3-8-.10 NO<sub>x</sub> Allowance Tracking System (Repeal)  
335-3-8-.11 NO<sub>x</sub> 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<sub>x</sub> Annual Trading Program (Repeal)  
335-3-8-.17 CAIR Designated Representative for CAIR NO<sub>x</sub>  
Sources (Repeal)  
335-3-8-.18 CAIR Permits (Repeal)  
335-3-8-.20 CAIR NO<sub>x</sub> Allowance Allocations (Repeal)  
335-3-8-.21 CAIR NO<sub>x</sub> Allowance Tracking System (Repeal)  
335-3-8-.22 CAIR NO<sub>x</sub> Allowance Transfers (Repeal)  
335-3-8-.23 CAIR Monitoring and Reporting (Repeal)  
335-3-8-.24 CAIR NO<sub>x</sub> Opt-in Units (Repeal)  
335-3-8-.25 CAIR NO<sub>x</sub> Ozone Season Trading Program (Repeal)  
335-3-8-.26 CAIR Designated Representative for CAIR NO<sub>x</sub>  
Ozone Season Sources (Repeal)  
335-3-8-.27 CAIR NO<sub>x</sub> Ozone Season Permits (Repeal)  
335-3-8-.29 CAIR NO<sub>x</sub> Ozone Season Allowance Allocations  
(Repeal)  
335-3-8-.30 CAIR NO<sub>x</sub> Ozone Season Allowance Tracking  
System (Repeal)  
335-3-8-.31 CAIR NO<sub>x</sub> Ozone Season Allowance Transfers  
(Repeal)  
335-3-8-.32 CAIR NO<sub>x</sub> Ozone Season Monitoring and Reporting  
(Repeal)  
335-3-8-.33 CAIR NO<sub>x</sub> 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<sub>x</sub> Budget Trading Program); 335-3-8-.06 (Authorized Account Representative for NO<sub>x</sub> Budget Sources); 335-3-8-.07 (Permits); 335-3-8-.08 (Compliance Certification); 335-3-8-.09 (NO<sub>x</sub> Allowance Allocations); 335-3-8-.10 (NO<sub>x</sub> Allowance Tracking

System); 335-3-8-.11 (NO<sub>x</sub> Allowance Transfers); 335-3-8-.12 (Monitoring and Reporting); 335-3-8-.13 (Individual Unit Opt Ins); 335-3-8-.16 (CAIR NO<sub>x</sub> Annual Trading Program); 335-3-8-.17 (CAIR Designated Representative for CAIR NO<sub>x</sub> Sources); 335-3-8-.18 (CAIR Permits); Rule 335-3-8-.20 (CAIR NO<sub>x</sub> Allowance Allocations); 335-3-8-.21 (CAIR NO<sub>x</sub> Allowance Tracking System); Rule 335-3-8-.22 (CAIR NO<sub>x</sub> Allowance Transfers); 335-3-8-.23 (CAIR Monitoring and Reporting); Rule 335-3-8-.24 (CAIR NO<sub>x</sub> Opt-in Units); 335-3-8-.25 (CAIR NO<sub>x</sub> Ozone Season Trading Program); Rule 335-3-8-.26 (CAIR Designated Representative for CAIR NO<sub>x</sub> Ozone Season Sources); Rule 335-3-8-.27 (CAIR NO<sub>x</sub> Ozone Season Permits); Rule 335-3-8-.29 (CAIR NO<sub>x</sub> Ozone Season Allowance Allocations); 335-3-8-.30 (CAIR NO<sub>x</sub> Ozone Season Allowance Tracking System); Rule 335-3-8-.31 (CAIR NO<sub>x</sub> Ozone Season Allowance Transfers); 335-3-8-.32 (CAIR NO<sub>x</sub> Ozone Season Monitoring and Reporting); and 335-3-8-.33 (CAIR NO<sub>x</sub> 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-.18 REPEAL CAIR Permits, Reserved.**

~~(1) General CAIR NO<sub>x</sub> Annual Trading Program permit requirements.~~

~~(a) For each CAIR NO<sub>x</sub> source required to have a Title V operating permit or required, under rule 335-3-8-.24, to have a Title V operating permit or other federally enforceable permit, such permit shall include a CAIR permit administered by the Department. Any requirements of the CAIR permit shall be considered federally enforceable.~~

~~1. For CAIR NO<sub>x</sub> sources required to have a Title V operating permit, the CAIR portion of the Title V operating permit shall be administered in accordance with the procedures under chapter 335-3-16, except as provided otherwise by this rule, rule 335-3-8-.16, or rule 335-3-8-.24. The applicable provisions of such requirements 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.~~

~~(b) Each CAIR permit shall contain, with regard to the CAIR NO<sub>x</sub> source and the CAIR NO<sub>x</sub> units at the source covered by the CAIR permit, all applicable CAIR NO<sub>x</sub> Annual Trading Program, CAIR NO<sub>x</sub> Ozone Season Trading Program, and CAIR SO<sub>2</sub> Trading Program requirements and shall be a complete and separable portion of the Title V operating permit or other federally enforceable permit under subparagraph (a) of this paragraph.~~

~~(2) Submission of CAIR permit applications.~~

~~(a) Duty to apply. The CAIR designated representative of any CAIR NO<sub>x</sub> source required to have a Title V operating permit or other federally enforceable permit shall submit to the Department a complete CAIR permit application under paragraph (3) of this rule for the source covering each CAIR NO<sub>x</sub> unit at the source at least 18 months (or such lesser time provided under the Department's permit regulations in rule 335-3-16 for final action on a permit application) before the later of January 1, 2009 or the date on which the CAIR NO<sub>x</sub> unit commences commercial operation, except as provided in rule 335-3-8-.24(4)(a).~~

~~(b) Duty to Reapply. For a CAIR NO<sub>x</sub> source required to have a Title V operating permit, the CAIR designated representative shall submit a complete CAIR permit application under paragraph (3) of this rule for the source covering each CAIR NO<sub>x</sub> unit at the source to renew the CAIR permit in accordance with the Department's Title V operating permits regulations in chapter 335-3-16 addressing operating permit renewal, except as provided in rule 335-3-8-.24(4)(b).~~

~~(3) Information requirements for CAIR permit applications. A complete CAIR permit application shall include the following elements concerning the~~

CAIR NO<sub>x</sub> source for which the application is submitted, in a format prescribed by the Department:

- ~~(a) Identification of the CAIR NO<sub>x</sub> source;~~
- ~~(b) Identification of each CAIR NO<sub>x</sub> unit at the CAIR NO<sub>x</sub> source; and~~
- ~~(c) The standard requirements under rule 335-3-8-16(6).~~
- ~~(4) CAIR permit contents and term.~~

~~(a) Each CAIR permit will contain, in a format prescribed by the Department, all elements required for a complete CAIR permit application under paragraph (3) of this rule.~~

~~(b) Each CAIR permit is deemed to incorporate automatically the definitions of terms under rule 335-3-8-16(2) and, upon recordation by the Administrator under rules 335-3-8-20, 335-3-8-21, 335-3-8-22, or 335-3-8-24, every allocation, transfer, or deduction of a CAIR NO<sub>x</sub> allowance to or from the compliance account of the CAIR NO<sub>x</sub> source covered by the permit.~~

~~(c) The term of the CAIR permit will be set by the Department, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO<sub>x</sub> source's Title V operating permit or other federally enforceable permit as applicable.~~

~~(5) CAIR permit revisions. Except as provided in subparagraph (4)(b) of this rule, the Department will revise the CAIR permit, as necessary, in accordance with the Department's Title V operating permits regulations in chapter 335-3-16 addressing permit revisions, as applicable.~~

~~(a) For a CAIR NO<sub>x</sub> source with a non Title V permit, except as provided in subparagraph (4)(b) of this rule, the Department will revise the CAIR 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: July 11, 2006.

**Amended:** April 3, 2007; March 31, 2009.