

APA-1

TRANSMITTAL SHEET FOR NOTICE  
OF INTENDED ACTION

Control: 335

Department or Agency: Alabama Department of Environmental Management Air  
Division - Air Pollution Control Program

Rule No.: 335-3-10-.01

Rule Title: General

Intended Action Amend

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? Yes

To what degree?: Industry cost of compliance as described in APA 6.

Is the increase in cost more harmful to the public than the harm  
that might result from the absence of the proposed rule? No

Are all facets of the rule-making process designed solely for the  
purpose of, and so they have, as their primary effect, the  
protection of the public? Yes

Does the proposed action relate to or affect in any manner any  
litigation which the agency is a party to concerning the subject  
matter of the proposed rule? No

Does the proposed rule have an economic impact? Yes

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 Services Agency.

Signature of certifying officer

Jeffery W. Kitchens

Jeffery W. Kitchens

Date

Wednesday, April 17, 2024

REC'D & FILED  
APR 17, 2024  
LEGISLATIVE SVC AGENCY

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ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT AIR DIVISION - AIR  
POLLUTION CONTROL PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

RULE NO. & TITLE: 335-3-10-.01 General

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

To incorporate by reference EPA changes to the New Source Performance Standards (NSPS). This incorporation allows the EPA to delegate administrative enforcement of these regulations to ADEM. Chapter 335-3-10 is not considered as a part of the federally enforceable State Implementation Plan (SIP). As such, any revisions to this Chapter/Rule are not proposed to be incorporated into Alabama's SIP.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held 10:00 a.m., June 10, 2024, in ADEM Hearing Room, 1400 Coliseum Blvd., Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, June 12, 2024

CONTACT PERSON AT AGENCY:

Larry Brown (334) 271-7878

*Jeffery W. Kitchens*

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Jeffery W. Kitchens

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

### **335-3-10-.01            General.**

(1) The Environmental Protection Agency Regulations, and the Appendices applicable thereto, governing Standards of Performance for New Stationary Sources (40 CFR 60 and Appendices) designated in rules 335-3-10-.02 and -.03 are incorporated by reference as they exist in 40 CFR 60 (July 1, 2023), and 88 FR 58442 [8/25/2023; addition of Subpart AAb and amendments to Subparts A, AA and AAa], 89 FR 11198 [2/24/2024; amendments to Subparts AA,AAa and AAb ]~~1+~~, as amended by the word or phrase substitutions given in rule 335-3-10-.04. References for specific documents containing the complete text of subject regulations are given in Appendix C to these Regulations. Authorities which are not delegable to the state are also listed in Appendix C.

**[NOTE: The standards pertaining to the Consolidated Federal Air Rule are located in Chapter 335-3-11A.]**

- (a) The materials incorporated by reference are available for purchase and inspection at the Department's offices at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.
- (2) The emission standards in this Chapter shall supercede the emission standards in Chapters 335-3-3, -4, -5, -6, -7, and -8 if both of the following criteria are met:
- (a) the source category is subject to the regulations in this Chapter for the specific pollutants to which an emission standard under this Chapter applies, and
  - (b) the emission standard under Chapters 335-3-3, -4, -5, -6, -7, and -8 is more stringent than the emission standard in this Chapter for the specific pollutants regulated.
- (3) Definitions. For purposes of this Chapter, the definitions listed in 40 CFR §60.2 will apply.

**Author:** Department of Environmental Management

**Statutory Authority:** Code of Ala. 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, 41-22-9.

**History:** Effective Date: May 25, 1976. **Amended:** Effective Date: February 13, 1985; June 9, 1987; June 16, 1988; September 2, 1989; November 1, 1990; March 28, 1991; July 31, 1991; October 24, 1991. **Amended:** November 23, 1993; effective December 28, 1993. **Amended:** Filed March 23, 1995; effective April 27, 1995. **Amended:** Filed October 17, 1996; effective November 21, 1996. **Amended:** Filed August 21, 1997; effective September 25, 1997. **Amended:** Filed February 20, 1998; effective March 27, 1998. **Amended:** Filed June 10, 1999; effective July 15, 1999. **Amended:** Filed December 9, 1999; effective January 13, 2000. **Amended:** Filed August 3, 2000; effective September 7, 2000. **Amended:** Filed February 7, 2002; effective March 14, 2002. **Amended:** Filed August 29, 2002; effective October 3, 2002. **Amended:** Filed February 27, 2003; effective April 3, 2003. **Amended:** Filed August 28, 2003; effective October 2, 2003. **Amended:** Filed February 15, 2005;

effective March 22, 2005. **Amended:** Filed November 7, 2005;  
effective December 12, 2005. **Amended:** Filed June 6, 2006;  
effective July 11, 2006. **Amended:** Filed February 27, 2007;  
effective April 3, 2007. **Amended:** Filed December 18, 2008;  
effective January 22, 2008. **Amended:** Filed July 1, 2008;  
effective August 5, 2008. **Amended:** Filed December 15, 2008;  
effective January 19, 2009. **Amended:** Filed February 23, 2010;  
effective March 30, 2010. **Amended:** Filed April 18, 2011;  
effective May 23, 2011. **Amended:** Filed April 24, 2012;  
effective May 29, 2012. **Amended:** Filed December 18, 2012;  
effective January 22, 2013. **Amended:** Filed April 23, 2013;  
effective May 28, 2013. **Amended:** Filed August 20, 2013;  
effective September 24, 2013. **Amended:** Filed October 20, 2015;  
effective November 24, 2015. **Amended:** Filed April 25, 2017;  
effective June 9, 2017. **Amended:** Filed August 21, 2018;  
effective October 5, 2018. **Amended:** Published February 28,  
2020; effective April 13, 2020. **Amended:** Published October 29,  
2021; effective December 13, 2021. **Amended:** Published December  
29, 2023; effective February 12, 2024. **Amended:** Published  
; effective .

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No:	<u>335</u>
Department or Agency:	<u>Alabama Department of Environmental Management Air Division - Air Pollution Control Program</u>
Rule No:	<u>335-3-10-.01</u>
Rule Title:	<u>General</u>
Intended Action:	<u>Amend</u>

                     This rule has no economic impact.

      Yes       This rule has an economic impact, as explained below:

**1. NEED/EXPECTED BENEFIT OF RULE:**

The adoption of these revisions to Chapter 335-3-10 by the State of Alabama will allow the regulations to be implemented and enforced by the Alabama Department of Environment Management. As discussed above, adoption of these regulations will allow the Department to retain State primacy of the federal program.

**2. COSTS/BENEFITS OF RULE AND WHY RULES IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:**

There will be no additional cost incurred by the residents of, or companies operating in, the State of Alabama if the revisions to the federal regulations are incorporated and adopted by the State. The costs are equivalent to the cost of compliance with the same regulations implemented by the federal government. Sources of air pollution will be subject to the same requirements for the installation of controls to prevent the emission of air pollution regardless of which agency (state or federal) implements these regulations.

**3. EFFECT OF THIS RULE ON COMPETITION:**

Adoption of these federally required regulations is not expected to have any effect on competition. As stated above, if the regulations are not adopted by the State of Alabama, they will be implemented on the federal level, and Alabama companies will be required to comply

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with the federal regulations and answer directly to the federal Environmental Protection Agency (EPA).

### **4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**

Adoption of these federally required regulations is not expected to have any effect on the cost-of-living and doing business in the geographical area of implementation (State of Alabama). As stated above, if the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Therefore, Alabama companies still would be required to comply with the federal regulations and answer directly to the federal EPA.

### **5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**

Adoption of these federally required regulations is not expected to have any effect on the employment in the geographical area in which the regulation would be implemented (State of Alabama).

### **6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:**

Revenue from the Federal Grant and fines and fees collected by the Department will fund the adoption of this regulation. For sources subject to Title V of the Clean Air Act, as amended, fees are collected based on the amount of air pollution emitted annually.

### **7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON EFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:**

The adoption of the proposed regulation is not expected to have any short-term or long-term economic impact. As stated above, if the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Alabama companies would still be required to comply with the federal regulations and answer directly to the federal EPA.

### **8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:**

No additional burdens are expected as a result of the adoption of these regulations. If the regulations are not adopted by the State of Alabama, they will be implemented on the federal level. Alabama companies would still be required to comply with the federal regulations and answer directly to the federal EPA.

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**9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:**

The effect of the regulation on the environment and public health is addressed in the accompanying Federal Registers.

**10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:**

The benefits of the proposed regulations have been discussed in the above paragraphs, as well as, the Federal Registers. Alabama is required to adopt these regulations by the EPA in order to continue to have primacy in implementing an air pollution control program. In the event that the regulations are not adopted at the State level, the requirements will still exist at the federal level. However, it is generally acknowledged that regulations are implemented and enforced in a more effective and efficient manner at the State level than at the federal level.

Signature of certifying officer

Jeffery W. Kitchens

Jeffery W. Kitchens

Date

Wednesday, April 17, 2024