

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-1-6-.04
Rule Title: Permit Application Fees

 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? **YES-INDIRECTLY VERY MINOR**

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? **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 Reference Service.

Signature of certifying officer Mandy Elliot

Date August 22, 2011

Date Filed

APA-2
11/96

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
GENERAL ADMINISTRATION DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

| | | |
|------------------------------------|-------------|---|
| <u>RULE NO. & TITLE</u> | 335-1-6-.04 | Permit Application Fees (Amend) |
| | 335-1-6-.05 | Water Quality Certification and Coastal Area Management Certification Fees (Amend) |
| | 335-1-6-.07 | Payment of Fees (Schedules A-J) (Amend) |

INTENDED ACTION: The Alabama Department of Environmental Management proposes to amend rules 335-1-6-.04, 335-1-6-.05 and 335-1-6-.07 of the Administrative Code.


SUBSTANCE OR PROPOSED ACTION: The proposed action of rules 335-1-6-.04, 335-1-6-.05, and 335-1-6-.07 would increase the Department's permit fees.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held September 21, 2011, at 10:00 a.m. in the Hearing Room at the Alabama Department of Environmental Management, 1400 Coliseum Blvd., Montgomery, AL 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: October 5, 2011.

CONTACT PERSON AT AGENCY: Russell A. Kelly (334) 271-7715



Lance R. LeFleur
Director

335-1-6-.04 Permit Application Fees.

(1) Except as provided in paragraph (2) of this rule, any person making application to the Department for the issuance, reissuance or modification of a permit shall be subject to a three-part application fee consisting of the following:

(a) a fee of ~~\$750~~ 895 per application relating to a greenfield site. This fee shall not apply to ~~General permits or applications subject to~~ Schedule B and Schedule F or to AFO/CAFO registration in Schedule D if continuing education certification is submitted with initial registration and each annual registration request as required by rule 335-6-7-.18;

(b) a fee which shall be the sum of the fees for each applicable type of permit application, and each action deemed necessary to complete evaluation of the application, as specified in Fee Schedules A through J; and

(c) a public hearing fee of ~~\$3,945~~ 4,695 if a public hearing relating to the permit application is held.

(2) Any person making application to the Department for modification of a permit to change the name of the permittee only or to transfer the permit only shall be subject to a ~~\$375~~ 445 fee per application.

(3) Fees required by AFO/CAFO registration may be suspended by category by the Director to reflect the budgetary circumstances of the AFO/CAFO program.

Author: Marilyn Elliott, Russell Kelly.

Statutory Authority: Code of Alabama 1975, § 22-22A-5.

History: February 13, 1985.

Amended: October 30, 1990; January 16, 1997; March 31, 1999; January 9, 2002; January 10, 2006; November 14, 2006; January 22, 2008, May 26, 2009; XXXXXXXXX, 2011.

APA-6
11/96

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

Control No. **335** Department or Agency **Environmental Management**

Rule No: **335-1-6-.04; 335-1-6-.07**

Rule Title: **Permit Application Fees; Payment of Fees (Schedules A-J)**

 New **X** Amend Repeal Adopt by Reference

 This rule has no economic impact.

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

1. NEED/EXPECTED BENEFIT OF RULE:

To recover the cost of the Department for permitting activities and to allow the Department to retain sufficient resources in the various permitting programs.

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

Increases in permitting fees allows the Department to collect additional fees and provides for adequate funding of the permitting programs. Collection of additional fees shall be in the same manner as existing fees and no additional resources will be expended by the Department for collection of the fee increases.

3. EFFECT OF THIS RULE ON COMPETITION:

The rule change should not have any effect on competition. The permit fee increase is uniformly applied.

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

The amendment to the existing rule minimally if at all effects cost-of-living increases and should have very little impact on business.

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

The permit fee increases (based upon cost-of-living increases and general fund budget cuts) should have no negative effect on employment in Alabama.

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

Increase in permit fees will be used to provide adequate resources in the Department's permitting programs.

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

The short and long term economic impact is negligible. The permit fee increases are ~19% and normally permits cover a 5-year period. However businesses will benefit by the Department being adequately funded and providing the timely issuance of permits.

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

The economic burden to business is negligible as compared to the benefit of receiving permits (necessary for conducting business) in a timely manner.

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

The environment and public health will be positively effected by this rule. The Department will be adequately staffed in the permitting programs thereby providing timely reviews and issuance of permits that are protective of the environment and public health.

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

If the Department is not staffed adequately to review and issue permits protective of the environment, creating delays could have a negative impact on the environment and public health, allowing unpermitted discharges, illegal dumping, unavailability of public drinking water, etc.