

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
Rule No. 335-1-1-.03
Rule Title: Organization and Duties of the Commission

 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.

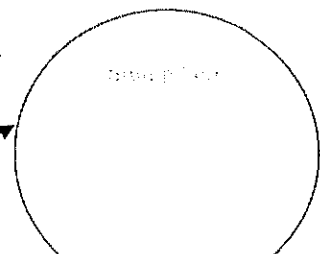
Certification of Authorized Official

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 07-20-2017

Date Filed



APA-2
11/96

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION 335-1, ADEM ADMINISTRATIVE CODE**

NOTICE OF INTENDED ACTION

AGENCY NAME: Environmental Management

RULE NO. & TITLE: Rule 335-1-1-.03 – Organization and Duties of the Commission
(Amended)
Rule 335-1-1-.04 – Organization of the Department (Amended)

INTENDED ACTION: Revise Division 1 of the ADEM Administrative Code with the amendment of Rules 335-1-1-.03 (Organization and Duties of the Commission), and 335-1-1-.04 (Organization of the Department)

SUBSTANCE OF PROPOSED ACTION:

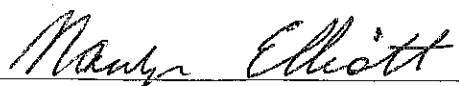
Revisions to the Division 1 Code are being proposed to include the federal Clean Air Act requirements that members of Boards and Commissions which oversee State air quality efforts conform to requirements in the Act involving disclosure of potential conflicts of interest. The Alabama Environmental Management Commission (EMC) serves this oversight function in Alabama, and the Act of the State Legislature which created ADEM in 1982 has language which not only complies with the disclosure requirements of the federal Clean Air Act, but has been acknowledged by the USEPA as doing so. The USEPA has determined that these disclosure requirements should be contained in ADEM's rules as well as in the Legislative Act. In order to meet these requirements, ADEM is requesting public comment on its proposal to: 1) Ask the EMC to incorporate into Departmental rules provisions of the Alabama Environmental Management Act that require members of the EMC to meet state and federal ethics laws and regulations; 2) Ask the EMC to incorporate language into Departmental rules applying similar requirements to the Director, the Deputy Director, and the Division Chiefs (i.e., the ADEM employees authorized to act on behalf of the Director to issue permits and enforcement orders); and 3) Submit the amended rules to EPA for incorporation into the state implementation plan (SIP).

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., September 6, 2017, in the ADEM Hearing Room, 1400 Coliseum Blvd., Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: September 8, 2017

CONTACT PERSON AT AGENCY: Ronald W. Gore (334) 271-7868



Lance R. LeFleur
Director

335-1-1-.03 Organization and Duties of the Commission.

(1) The Commission is a statutorily-created seven member commission with the following duties:

(a) To select a Director for the Department of Environmental Management and to advise the Director on environmental matters which are within the Department's scope of authority;

(b) To establish, adopt, promulgate, modify, repeal and suspend any rules, regulations, or environmental standards for the Department which may be applicable to the state as a whole or any of its geographical parts;

(c) To develop environmental policy for the state; and

(d) To hear and determine appeals of administrative actions.

(2) The members of the Commission are appointed for six-year terms by the Governor with the advice and consent of the senate. Position qualifications are as follows:

(a) a physician licensed to practice medicine in the State of Alabama who shall be familiar with environmental matters;

(b) a professional engineer registered in the State of Alabama who shall be familiar with environmental matters;

(c) an attorney licensed to practice law in the State of Alabama who shall be familiar with environmental matters;

(d) a chemist possessing as a minimum a bachelor's degree from an accredited university, or a veterinarian licensed to practice veterinary medicine in the State of Alabama, who shall be familiar with environmental matters;

(e) an individual certified by the national water well association certification program;

(f) a biologist or an ecologist possessing as a minimum a bachelor's degree from an accredited university with training in environmental matters;

(g) a resident of the state for at least two years; and

(h) members shall meet all requirements of the state ethics law and the conflict of interest provisions of applicable federal laws and regulations.

(3) The Commission meets regularly, at least once every two months, and keeps a complete and accurate record of the proceedings of its meetings, a copy of which is on file in the office of the Director and open to public inspection.

(4) Beginning with Fiscal Year 2009 as needed for the effective

execution of statutory mandates, and at least every fifth year after the last notice as outlined herein, and in accordance with all applicable statutes and regulations, the Director shall deliver to the Commission a notice of intent to update the Unified Strategic Plan under which the Commission and Department operate. The notice shall contain the Department's summary of departmental goals, timeline for plan development, and a brief explanation of methodology for updating the Unified Strategic Plan. Any and all updates to the Unified Strategic Plan shall be completed within one year of the Director's notice.

(5) Upon receipt of the notice delivered according to paragraph (4) of this rule, the Commission shall appoint a special ad hoc committee to oversee the Department's development and implementation of the planning process.

(6) Any final Unified Strategic Plan produced according to this process shall be approved by the Commission.

Author: Marilyn Elliott; John P. Hagood.

Statutory Authority: Code of Alabama, 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.

History: August 1, 1988.

Amended: May 26, 2009-; XXXXXX, 2017.