

**Summary of Reasons Supporting the Adoption of the Proposed
Amendments to the Alabama Department of Environmental
Management's division 335-3 Air Division Administrative Code**

Revisions to Chapter 335-3-4

The Department is proposing revisions to regulations concerning opacity as found in ADEM Admin. Code r. 335-3-4-.01.

On September 11, 2003, the Department submitted revisions to the opacity regulations, found in ADEM Admin. Code r. 335-3-4-.01, to the Environmental Protection Agency (EPA) for incorporation into the Alabama State Implementation Plan (SIP). Subsequently, EPA indicated that the submitted rule change could not, in its opinion, be incorporated into the SIP. Therefore, the Department is revising its current opacity regulations in order to make the regulations approvable as a SIP revision. EPA has indicated that it may incorporate these latest changes into the SIP if the altered rules are submitted to EPA.

The proposed revisions to the opacity regulations would affect emissions sources that are subject only to the opacity standard found in ADEM Admin. Code r. 335-3-4-.01 that are required to utilize continuous opacity monitoring systems (COMS) as an indicator of opacity of emissions. This proposal would affect only sources subject to ADEM Admin. Code r. 335-3-4-.01(3), 335-3-4-.01(4), and 335-3-4-.01(5). Specifically, the proposed changes to the rule would consist of (1) allowing COMS to be used as the compliance method for opacity, (2) removing the hourly 40% opacity exemption, (3) limiting the non-exempt opacity exceedances to 24 six-minute periods per day, and (4) limiting the average daily opacity (excluding exempt periods under 335-3-4-.01(1)(c) and 335-3-4-.01(1)(d)) to 22%.

This rulemaking would make the existing opacity regulations more stringent.

335-3-4-.01 Visible Emissions.

(1) Visible Emissions Restrictions for Stationary Sources.

(a) Except as provided in subparagraphs (b), (c), (d), or (e) of this paragraph, no person shall discharge into the atmosphere from any source of emission, particulate of an opacity greater than that designated as twenty percent (20%) opacity, as determined by a six (6) minute average.

(b) For a person not covered by paragraphs (3), (4), and (5) of this rule, ~~d~~During one six (6) minute period in any sixty (60) minute period, a person may discharge into the atmosphere from any source of emission, particulate of an opacity not greater than that designated as forty percent (40%) opacity.

(c) The Director may approve exceptions to this rule or specific sources which hold permits under chapter 335-3-14; provided however, such exceptions may be made for startup, shutdown, load change, and rate change or other short, intermittent periods of time upon terms approved by the Director and made a part of such permit.

(d) The Director may also approve exceptions to this rule in accordance with the following provisions:

1. The owner or operator of the affected source shall request in writing for the Director to provide an opportunity for the determination of the opacity of emissions during sampling and testing required pursuant to rule 335-3-1-.08.

2. Upon receipt from such owner or operator of the written report of the results of the sampling and testing conducted pursuant to rule 335-3-1-.08, the Director will make a finding concerning compliance with opacity and other applicable standards.

3. If the Director determines that an affected source is in compliance with all applicable standards for which the sampling and testing are being conducted in accordance with rule 335-3-1-.08 but during such sampling and testing the affected source fails to meet any applicable opacity standard, he shall notify the owner or operator and advise him that he may petition the Director within ten (10) days of receipt of notification to make appropriate adjustment to the opacity standard for the affected source.

4. The Director may grant such a petition upon a demonstration by the owner or operator that the affected source and associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the sampling and testing; that such sampling and testing were performed under the conditions established by the Director; and that the affected source and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard.

5. Upon the conclusion of sampling and testing as required above, the Director may establish an opacity standard for the affected source at a level at which the source will be able, as indicated by the sampling and testing, to meet the opacity standard at all times during which the source is meeting the mass emissions standards. If sufficient data is not available to the Director to establish such opacity standards, the Director may require additional sampling and testing as necessary to make such a determination of opacity.

(e) The provisions of this paragraph shall not apply to combustion sources in single-family and duplex dwellings where such sources are used for heating or other domestic purposes.

(2) For a person subject to subparagraph (1)(b) of this rule, ~~C~~compliance with opacity standards in this rule shall be determined by conducting observations in accordance with Reference Method 9 in Appendix A, 40 CFR Part 60, as the same may be amended requiring a six (6) minute average as determined by twenty-four (24) consecutive readings, at intervals of fifteen (15) seconds each.

(3) The conditions in paragraphs (4) and (5) of this rule apply to each emissions unit that meets all of the following requirements:

(a) A Continuous Opacity Monitoring System (COMS) is used for indication of opacity of emissions;

(b) With respect to opacity limitations, the units are subject only to the opacity provisions stated in paragraph (1) of this rule; and

(c) The COMS system utilized is required to comply with the requirements of 40 CFR 60.13 or 40 CFR 75.14 (if applicable) and is required to be certified in accordance with the requirements of 40 CFR 60, Appendix B, Performance Specification 1.

(4) ~~During each calendar quarter, the permittee will not be deemed in violation of rule 335-3-4-.01(1) if the non-exempt excess emissions periods do not exceed 2.0 percent of the source operating hours for which the opacity standard is applicable and for which the COMS is indicating valid data.~~ Except as otherwise exempt under subparagraphs (1)(c) or (1)(d) of this rule, no permittee shall discharge into the atmosphere from any source of emission, particulate of an opacity greater than that designated as twenty percent (20%) opacity, as determined by a six (6) minute average, except that during each calendar quarter, the permittee may discharge into the atmosphere from any emissions unit qualifying under paragraph (3) of this rule, particulate with an opacity exceeding 20% for not more than twenty-four (24), six (6) minute periods in any calendar day, if such periods do not exceed 2.0 percent of the source operating hours for which the opacity standard is applicable and for which the COMS is indicating valid data.

(5) No permittee shall discharge into the atmosphere from any source of emission particulate of an opacity greater than 22% (excluding exempt periods allowed under subparagraphs (1)(c) and (1)(d) of this rule) averaged over each calendar day.

(6) For emissions units described in paragraph (3) above, the permittee shall comply with paragraphs (4) and (5) within 6 months of EPA approval of paragraphs (3), (4), and (5). Until 6 months after EPA approval of paragraphs (3), (4), and (5), emissions units described by paragraph (3) above shall be subject to paragraph (1) of this rule.

~~(5) Nothing in paragraph (4) of this rule shall be construed to supercede the validity of opacity readings taken under paragraph (2) of this rule.~~

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Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

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