

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management
Rule No. 335-14-11-.02
Rule Title: Standards for Small Quantity Handlers of Universal Waste

 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? 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

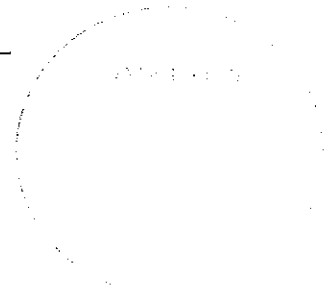
If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

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 Mandy Elliott

Date October 20, 2016



**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Environmental Management

RULE NO. & TITLE: 335-14-11-.01 General
335-14-11-.02 Standards for Small Quantity Handlers of
Universal Waste
335-14-11-.03 Standards for Large Quantity Handlers of
Universal Waste

INTENDED ACTION: Amend chapter 335-14-11 of the ADEM Administrative
Code

SUBSTANCE OF PROPOSED ACTION

The Department of Environmental Management proposes to amend portions of the Division 14 Hazardous Waste Program Regulations to make typographical and grammatical corrections, to make clarifications necessary to maintain consistency with analogous federal rules, and to adopt new amendments required by the USEPA which are necessary to maintain the programs fully authorized status.

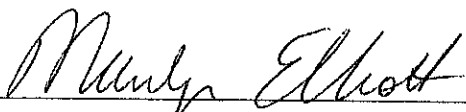
TIME, PLACE, MANNER OF PRESENTING VIEWS

Comments may be submitted in writing or orally at a public hearing to be held Wednesday, December 7, 2016 at 2:00 p.m. in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Blvd, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE

Wednesday, December 7, 2016 at 5:00 p.m.

CONTACT PERSON AT AGENCY: Chip Crockett, Chief of the Industrial Hazardous Waste Branch, ADEM Land Division, (334) 270-5627.



Lance R. LeFleur
Director

335-14-11-.02 Standards for Small Quantity Handlers of Universal Waste.

(1) Applicability. 335-14-11-.02 applies to small quantity handlers of universal waste [as defined in rule 335-14-1-.02].

(2) Prohibitions. A small quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in 335-14-11-.02(8); or by managing specific wastes as provided in 335-14-11-.02(4) or 335-14-8-.01(1)(c)2.(x).

(3) Notification. A small quantity handler of universal waste is not required to notify the Department of universal waste handling activities.

(4) Waste management.

(a) Universal waste batteries. A small quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2. A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

(i) Sorting batteries by type;

(ii) Mixing battery types in one container;

(iii) Discharging batteries so as to remove the electric charge;

(iv) Regenerating used batteries;

(v) Disassembling batteries or battery packs into individual batteries or cells;

(vi) Removing batteries from consumer products; or

(vii) Removing electrolyte from batteries.

3. A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in rule 335-14-2-.03.

(i) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of 335-14-1 through 335-14-9. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to 335-14-3.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State of Alabama, or local solid waste regulations.

(b) Universal waste pesticides. A small quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

1. A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

2. A container that does not meet the requirements of 335-14-11-.02(4)(b)1., provided that the unacceptable container is overpacked in a container that does meet the requirements of 335-14-11-.02(4)(b)1.; or

3. A tank that meets the requirements of rule 335-14-6-.10, except for 335-14-6-.10(8)(e), (11), and (12); or

4. A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(c) Universal waste mercury-containing equipment. A small quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A small quantity handler of universal waste must place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the device, must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

2. A small quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

(i) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from that containment device to a container that meets the requirements of rule 335-14-3-.03(5);

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of rule 335-14-3-.03(5);

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

3. A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(i) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(ii) Follows all requirements for removing ampules and managing removed ampules under paragraph (c)2. of this section;

4. (i) A small quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must

determine whether the following exhibit a characteristic of hazardous waste identified in rule 335-14-2-.03:

(I) Mercury or clean-up residues resulting from spills or leaks; and/or

(II) Other solid waste generated as a result of the removal of mercury-containing ampules or housings (e.g., the remaining mercury-containing device).

(ii) If the mercury, residues, and/or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 335-14-1 through 335-14-9. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it in compliance with 335-14-3.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State of Alabama or local solid waste regulations.

(d) Lamps. A small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2. A small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonable foreseeable conditions.

(5) Labeling/marking. A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste—Battery(ies)", or "Waste Battery(ies)", or "Used Battery(ies)";

(b) A container, (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in 335-14-11-.01(3)(a)1. are contained must be labeled or marked clearly with:

1. The label that was on or accompanied the product as sold or distributed; and

2. The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)";

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in 335-14-11-.01(3)(a)2. are contained must be labeled or marked clearly with:

1. (i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in 335-14-11-.02(5)(c)1.(i) is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR Part 172;

(iii) If using the labels described in 335-14-11-.02(5)(c)1.(i) and (ii) is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a State; and

2. The words "Universal Waste__Pesticide(s)" or "Waste__-Pesticide(s)".

(d) (i) Universal waste mercury-containing equipment (i.e., each device), or a container in which the equipment is contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury-Containing Equipment", "Waste Mercury-Containing Equipment", or "Used Mercury-Containing Equipment".

(ii) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Thermostat(s)", "Waste Mercury Thermostat(s)", or "Used Mercury Thermostat(s)."

(e) Each lamp or a container or package in which the lamps are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste — Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)".

(6) Accumulation time limits.

(a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of 335-14-11-.02(6)(b) are met.

(b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

1. Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

2. Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

3. Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

4. Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

5. Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

6. Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(7) Employee training. A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

(8) Response to releases.

(a) A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A small quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable

requirements of 335-14-1 through 335-14-9. The handler is considered the generator of the material resulting from the release, and must manage it in compliance with 335-14-3.

(9) Off-site shipments.

(a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a small quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of rule 335-14-11-.04 while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR Parts 171 through 180, a small quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR Parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

1. Receive the waste back when notified that the shipment has been rejected, or

2. Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

1. Send the shipment back to the originating handler, or

2. If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler

must immediately notify the Department of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Department will provide instructions for managing the hazardous waste.

(h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, State of Alabama, or local solid waste regulations.

(10) Tracking universal waste shipments. A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

(11) Exports. A small quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in 335-14-3-.05(9)(a)1. (in which case the handler is subject to the requirements of rule 335-14-3-.09) must:

(a) Comply with the requirements applicable to a primary exporter in rules 335-14-3-.05(4), 335-14-3-.05(7)(a)1. through 4., (a)6., and (b), and 335-14-3-.05(8);

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in rule 335-14-1-.02; and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

Author: Amy P. Zachry; C. Edwin Johnston; Michael B. Jones; Lynn T. Roper; Michael B. Champion; Bradley N. Curvin; Theresa A. Maines; Dustin R. Land; Vernon H. Crockett.

Statutory Authority: Code of Alabama 1975, §§ 22-30-11, 22-30-14, 22-30-15, and 22-30-16.

History: January 12, 1996.

Amended: March 28, 1997; March 27, 1998; April 13, 2001; March 15, 2002; April 17, 2003; March 31, 2005; April 4, 2006; April 3, 2007; March 31, 2009; March 30, 2010; XXXXXX, XXXX.