

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management
Rule No. 335-14-3-.01
Rule Title: General

____ 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

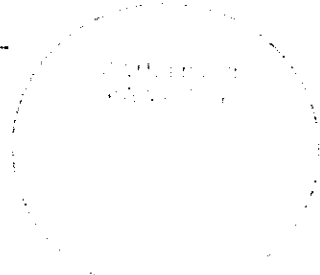
If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

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 Marilyn 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:

- 335-14-3-.01 General
- 335-14-3-.02 The Manifest
- 335-14-3-.03 Pre-Transport Requirements
- 335-14-3-.04 Recordkeeping and Reporting
- 335-14-3-.05 Exports of Hazardous Waste
- 335-14-3-.06 Imports of Hazardous Waste
- 335-14-3-.08 Special Requirements for Generators of Waste Destined for Disposal at Commercial Hazardous Waste Disposal Facilities Located in the State of Alabama
- 335-14-3-.09 Transboundary Shipments of Hazardous Waste for Recovery with the Organization for Economic Cooperation and Development (OECD)
- 335-14-3-.12 Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities
- 335-14-3 Appendix I Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and their Instructions)

INTENDED ACTION: Amend chapter 335-14-3 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

335-14-3-.01 General.

(1) Purpose, scope, and applicability.

(a) 335-14-3 establishes standards for

1. Generators of hazardous waste and

2. Generators of other waste destined for disposal at commercial hazardous waste disposal facilities located in the State of Alabama.

(b) 335-14-2-.01(5)(c) and (d) must be used to determine the applicability of the provisions of 335-14-3 that are dependent on calculations of the quantity of hazardous waste generated per month.

(c) In addition to the requirements of Chapters 335-14-5 through 335-14-9, a generator who treats, stores, or disposes of hazardous waste on-site must only comply with the following with respect to that waste:

1. 335-14-3-.01(2) for determining whether or not he has a hazardous waste;

2. 335-14-3-.01(3) for obtaining an EPA identification number;

3. 335-14-3-.03(5) for accumulation of hazardous waste;

4. 335-14-3-.04(1)(c) and (d) for recordkeeping;

5. 335-14-3-.04(5) for additional reporting; and

6. If applicable, 335-14-3-.07(1) for farmers.

(d) Any person who exports or imports hazardous wastes that are considered hazardous under U.S. national procedures to or from the countries listed in 335-14-3-.05(9)(a) 1. for recovery must comply with 335-14-3-.09. A waste is considered hazardous under U.S. national procedures if the waste meets the definition of hazardous waste in 335-14-2-.01(3) and is subject to either the manifesting requirements of 335-14-3-.02, the universal waste management standards of 335-14-11, or the export requirements in the spent lead-acid battery management standards of 335-14-7-.07.

(e) Any person who imports hazardous waste into the United States must comply with the standards applicable to generators established in 335-14-3.

(f) A farmer who generates waste pesticides which are hazardous waste and who complies with all the requirements of 335-14-3-.07(1) is not required to comply with other standards in 335-14-3 or in Chapters 335-14-5, 335-14-6, 335-14-8, or 335-14-9 with respect to such pesticides.

(g) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in 335-14-3.

(h) The generators of other waste destined for disposal at commercial hazardous waste disposal facilities located in the State of Alabama must only comply with 335-14-3-.08, Appendix I, and Appendix II.

(i) Persons responding to an explosives or munitions emergency in accordance with 335-14-5-.01(1)(g)8.(i)(IV) or (iv) or 335-14-6-.01(1)(c)11.(i)(IV) or (iv), and 335-14-8-.01(1)(c)3. (i)(IV) or (iii) are not required to comply with the standards of 335-14-3.

(j) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of 335-14-3-.12 are not subject to (for purposes of this paragraph, the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in 335-14-1-.02):

1. The requirements of 335-14-3-.01(2) or 335-14-3-.03(5)(c), for large quantity generators and small quantity generators, except as provided in 335-14-3-.12, and

2. The conditions of 335-14-2-.01(5)(b), for conditionally exempt small quantity generators, except as provided in 335-14-3-.12.

[**Note 1:** The provisions of 335-14-3-.03(5) are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of 335-14-3-.03(5) only apply to owners or operators who are shipping hazardous waste which they generated at the facility.]

[**Note 2:** A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in Chapters 335-14-5, 335-14-6, 335-14-7, 335-14-8, and 335-14-9.]

(2) Hazardous waste determination. A person who generates a solid waste, as defined in 335-14-2-.01(2), must determine if that waste is a hazardous waste using the following method:

(a) He should first determine if the waste is excluded from regulation under 335-14-2-.01(4);

(b) He must then determine if the waste is listed as a hazardous waste in 335-14-2-.04; and

(c) For purposes of compliance with Chapter 335-14-9, or if the waste is not listed in 335-14-2-.04, the generator must then determine whether the waste is identified in 335-14-2-.03 by either:

1. Testing the waste according to the methods set forth in 335-14-2-.03 or according to an equivalent testing method approved under 335-14-1-.03; or

2. Applying knowledge of the hazardous characteristic of the waste in light of the materials or the processes used.

(d) If the waste is determined to be hazardous, the generator must refer to Chapters 335-14-2, 335-14-5, 335-14-6, 335-14-7, 335-14-9, and 335-14-11 for possible exclusions or restrictions pertaining to management of his specific waste.

(3) EPA identification numbers.

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Department.

(b) A generator who has not received an EPA identification number may obtain one by applying to the Department using the ADEM Form 8700-12. Upon receiving the request, the Department will assign an EPA identification number to the generator. A generator shall file a new ADEM Form 8700-12 if the generator changes physical location.

[Note: EPA identification numbers are location specific and cannot be transferred from one individual generation site to another.]

(c) No notification under 335-14-3-.01 shall be deemed complete without payment of the certification fee specified in Chapter 335-1-6 of the Department's Administrative Code.

(d) A generator must not offer his hazardous waste to transporters that have not received an EPA identification number and an Alabama Hazardous Waste Transport Permit or to treatment, storage, or disposal facilities that have not received an EPA identification number and an Alabama Hazardous Waste Facility Permit or interim status pursuant to 335-14-8-.07 (or, in the case of out-of-state facilities, a permit valid in the receiving State).

(4) Annual Submission of ADEM Form 8700-12, Notification of Regulated Waste Activity and Certifications of Waste Management.

(a) A large quantity generator or small quantity generator must submit a correct and complete ADEM Form 8700-12 (including all appropriate attachment pages and fees) reflecting current waste activities to the Department annually. The Department must receive the ADEM Form 8700-12 (including all appropriate attachment pages and fees) no later than the 15th day of the specified month in the specified month schedule located at 335-14-1-.02(1)(a).

(b) Generators which anticipate an increase in hazardous waste generation in amounts significant enough to cause a change to a higher generator classification should notify for the higher classification during the annual notification period (i.e., if a generator typically operates as a small quantity generator, but anticipates being a large quantity generator for any period during the year, they should notify as a large quantity generator). However, if a generator chooses not to notify at the higher classification or fails to anticipate an increase in hazardous waste generation that would change their generator status, a notification must be submitted to the Department at the time of the increase.

[**Note:** If a generator notifies at a level higher than their actual generator status, the generator will be required to comply with all the applicable requirements of that higher generator classification. Alternatively, the generator has the option to submit multiple ADEM Form 8700-12 notifications (including all appropriate attachment pages and fees) each time their generator status changes, and comply with the requirements applicable to their actual monthly generator status.]

(c) A conditionally exempt small quantity generator without an existing and active EPA ID number is not required to submit an ADEM Form 8700-12 annually. A conditionally exempt small quantity generator with an existing and active EPA ID number is required to submit ADEM Form 8700-12 annually or deactivate the number by formally notifying the Department in accordance with the requirements of 335-14-2-.01(5)(f)4.(ii).

(d) The ADEM Form 8700-12, Notification of Regulated Waste Activity, is not complete without payment of all the appropriate fees specified in Chapter 335-1-6 of the ADEM Administrative Code.

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Statutory Authority: Code of Alabama 1975, §§22-30-11, 22-30-13, 22-30-14.

History: November 19, 1980.

Amended: April 9, 1986; August-24,-1989; December 21, 1989; December 6, 1990; January-25,-1992; January 1, 1993; January 5, 1995; January-12,-1996; March 8, 1996; March-28,-1997; March-27,-1998; April-13,-2001; March-15,-2002; April-17,-2003; March-31,-2005; April-4,-2006; March-30,-2010; March-31,-2011; April-3,-2012; XXXXX,XXXX.