

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management
Rule No. 335-14-3-.08
Rule Title: Special Requirements for Generators of Waste Destined for Disposal
at Commercial Hazardous Waste Disposal Facilities Located in the
State of Alabama

 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-.08 Special Requirements for Generators of Waste Destined Ffor Disposal at Commercial Hazardous Waste Disposal Facilities Located in the State of Alabama.

(1) Applicability. 335-14-3-.08 applies to generators of waste destined for disposal at a commercial hazardous waste disposal facility located in the State of Alabama.

(2) **[Reserved].**

(3) Disposal Requirements. All generators (directly or through their authorized agents) identified in 335-14-3-.08(1) must submit an adequate notification, meeting the requirements of 335-14-3-.08(5)(a), to the Department prior to disposal of any waste stream at a commercial hazardous waste disposal facility located in the State of Alabama. A commercial hazardous waste disposal facility located in the State of Alabama may not dispose of wastes from any generator that has not submitted an adequate notification to the Department.

(a) No waste may be disposed of at a commercial hazardous waste disposal facility in the State of Alabama sooner than five (5) working days following the Department's receipt of notification unless the Department has previously advised the disposal facility, via mail and/or electronic transmission, of its acceptance of the notification.

(b) If, after five (5) working days following receipt of the notification, the Department fails to advise the generator, his authorized agent, and/or the designated commercial hazardous waste disposal facility of either the Department's acceptance of the notification or of a determination that the notification is inadequate, the disposal facility may, at its discretion, dispose of the waste.

(c) If, at any time during the five (5) working days following receipt of a notification, the Department determines that the notification is inadequate, in accordance with 335-14-3-.08(6), the Department will provide notice of the deficiency to the commercial hazardous waste disposal facility and/or the generator or his authorized agent. After notification from the Department of a deficient disposal request, the generator or his authorized agent may not dispose of the proposed waste until the deficiency is resolved to the satisfaction of the Department.

(d) If, at any time after disposal approval is granted or after five (5) working days following receipt of a notification, the Department determines that the notification is inadequate, in accordance with 335-14-3-.08(6), the Department will immediately provide notice of the deficiency to the disposal facility and/or the generator or his authorized agent. Following receipt of the Department's notice of an inadequate notification, further shipments of the waste stream in question may not be disposed of by the commercial hazardous waste disposal facility until the deficiency is resolved to the satisfaction of the Department.

(4) Submittal of Notification. The notification required by 335-14-3-.08 may be submitted by the generator, the generator's authorized agent or the commercial

hazardous waste disposal facility using ADEM Form 278 (Disposal Approval Request) or an equivalent form.

(5) Disposal Approval. To obtain disposal approval the generator, the generator's authorized agent, or the commercial hazardous waste disposal facility must submit an adequate notification, in accordance with 335-14-3-.08(4), to the Department prior to disposal of the waste.

(a) The notification shall include:

1. All information required by ADEM Form 278.

2. A description of the waste which will enable the Department to determine whether the waste is a hazardous waste. This must include a detailed and complete description of the process generating the waste, and where applicable:

(i). A detailed chemical and physical analysis, including Toxicity Characteristic Leaching Procedure (TCLP), where needed. In accordance with 335-14-3-.01(2)(c)2., the generator may rely on his knowledge of waste generated in determining the extent and types of analytical data supplied to the Department. The commercial hazardous waste disposal facility may also rely on the generator's knowledge in determining the sufficiency and accuracy of the information provided. However, the Department will make the final determination of whether a notification is complete and accurate; and

(ii). A complete list of all applicable hazardous waste codes.

3. A Land Disposal Restrictions Notification or Certification form, if applicable; and

4. All applicable fees as specified in Chapter 335-1-6 of the ADEM Administrative Code.

(b) Unless the Department determines that the generator's information is false, incomplete, or inaccurate, it shall accept such information as meeting the requirements of 335-14-3-.08. The Department's acceptance of the generator's or commercial hazardous waste disposal facility's information does not relieve the generator or commercial hazardous waste disposal facility of the responsibility for complying with the requirements under Division 335-14 or other federal, State of Alabama or local requirements.

(c) All disposal approvals shall remain valid for up to two (2) years unless new information becomes available which would render the notification inadequate under 335-14-3-.08(3)(d).

(6) Deficient Notification. The generator, his authorized agent, and/or the designated commercial hazardous waste disposal facility shall within five (5) working days of receipt of notification be advised by the Department in writing and/or electronic transmission of any deficiencies in the notification.

(7) Adequate Notification. A notification from the generator, the generator's authorized agent, or a commercial hazardous waste disposal facility, which meets the requirements of 335-14-3-.08(5)(a) and has not been determined to be false, incomplete, or inaccurate as indicated in 335-14-3-.08(5)(b) shall be deemed adequate. Adequate notifications will be assigned unique certification numbers as approval for disposal for the waste at the specified commercial hazardous waste disposal facility.

(8) Rejection of Notification.

(a) A notification may be rejected by the Department if:

1. It is determined by the Department that any applicable requirements of any federal, State of Alabama, or local laws or regulations would be violated if the waste is disposed of; or

2. It is determined that the waste is prohibited from land disposal as outlined in Chapter 335-14-9 and the notification does not indicate that the prescribed treatment standards will be met; or

3. The commercial hazardous waste disposal facility has not obtained a Hazardous Waste Permit or does not have interim status authorization to dispose of the waste; or

4. The notification is the subject of an inadequate determination as described in 335-14-3-.08(3)(c) or (d) and 335-14-3-.08(6), and the deficiency has not been reconciled or the information has not been provided to the Department within fifteen (15) calendar days following the notice of an inadequate notification or the request for additional information.

(b) Within two (2) working days following the Department's decision to reject a notification, the generator and/or his authorized agent, and the disposal facility will be notified in writing and/or electronically of the rejection.

(9) Recertification.

(a) A recertification of the initial notification is required biennially (every 2 years) unless:

1. Regulations promulgated since the previous notification have changed the regulatory status of the waste stream; or

2. The process generating the waste, the waste description, or the chemical composition of the waste stream has changed since the previous recertification or initial notification such that new constituents are present or the physical characteristics of the waste stream have changed in a manner which will alter the management method or the regulatory status of the waste stream.

(b) In the case of either 335-14-3-.08(9)(a)1. or 2., the recertification which identifies those changes requiring recertification will be made within five (5) working days prior to disposal of any of the waste which is subject to such change.

1. A recertification will not be necessary for incidental or temporary changes to an approved waste stream which result in "discrepant" waste, when the discrepancy is addressed as described in 335-14-5-.05(3)(c). Such changes may include, but are not limited, to accumulation of precipitation, process upsets which temporarily change the characteristics of the waste, temporary additions of similar waste, or instances where the waste does not conform in every respect to the waste which was originally approved, but is representative of the waste as generated.

2. The Department may in its discretion allow the commercial hazardous waste disposal facility to receive waste subject to such change prior to completion and submittal of the recertification. These submittals will be treated as modifications to an approved waste stream subject to Departmental review and potential rejection under 335-14-3-.08(8).

(10) Emergency Authorization for Disposal. The Department may grant emergency authorization for disposal if the generator (or responsible party in the case of an emergency cleanup) can demonstrate that a delay in disposal could cause a situation that could cause harm to human health or the environment. To receive emergency authorization for disposal, the generator or responsible party must:

(a) Notify the Department by calling the Land Division at (334) 271-7700 and provide sufficient information to grant emergency authorization for disposal.

(b) Within 15 calendar days submit a complete ADEM Form 278 (Disposal Approval Request) to the Department.

(11) Special Requirements for Brokers of Waste.

(a) For all wastes included in both bulked waste streams and consolidated waste streams, the process generating each individual waste stream must be identified in the notification. For the purpose of completing the notification or the shipping manifest only, the broker may be identified as the waste generator.

(b) Wastes included in a bulked waste stream must be similar in physical form (i.e., solid or liquid) and have similar hazardous constituents. Wastes included in a consolidated waste stream must have similar hazardous constituents.

(c) Any broker of waste may be required by the Department to submit for ADEM's review a list of all generators (including name and EPA Identification Number) contributing waste to a specific shipment of a bulked or consolidated waste stream. Each broker who either consolidates or bulks waste for shipment for disposal at a commercial hazardous waste landfill in the State of Alabama must submit to the Department certification that it has in place a tracking system capable of providing such information for each shipment of bulked or consolidated waste, and that such information will be provided to the Department upon request. This certification must be renewed annually by the broker.

[**Note:** An example of an acceptable bulked or consolidated waste stream includes F006, K061, and K106. These wastes are similar in physical form and are all listed due to the presence of toxic metals.]

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

History: August 24, 1989.

Amended: December 21, 1989; December-__6, 1990; April 2, 1991; January 5, 1995; January 12, 1996; March 8, 1996; March-__27,-_1998; April-__2,-_1999; April-__13,-_2001; March-__15,-_2002; April-__17,-_2003; March-__31,-_2005; March-__30,-_2010; April-__3,-_2012; March-__31,-_2015; XXXXX,XXXX.