

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-14-1-.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 Mandy Elliott

Date October 22, 2012

APA-2
11/96

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE: 335-14-1-.01 General (Amend)
335-14-1-.02 Definitions and References (Amend)

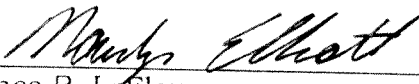
INTENDED ACTION: Revise Division 14 of the ADEM Administrative Code.

SUBSTANCE OR PROPOSED ACTION: Revise portions of Division 14 Regulations to incorporate changes to ensure consistency with State and Federal Statutes; to adopt certain State specific requirements; and to provide clarification of State requirements for the management of hazardous waste.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Comments may be submitted in writing or orally at a public hearing to be held Thursday, December 13, 2012 at 10:00 a.m. in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Thursday, December 13, 2012 at 5:00 p.m.

CONTACT PERSON AT AGENCY: James L. Bryant, Chief of the Environmental Services Branch, ADEM Land Division (334/271-7771)



Lance R. LeFleur
Director

335-14-1-.01 General.

(1) Purpose, scope, applicability, citations, and submissions.

(a) 335-14-1 provides definitions of terms, general standards, and overview information applicable to Division 335-14-1 through 335-14-6 and 335-14-9.

(b) In 335-14-1:

1. 335-14-1-.01(2) sets forth the rules that EPA and ADEM will use in making information they receive available to the public and sets forth the requirements that generators, transporters, or owners or operators of treatment, storage or disposal facilities must follow to assert claims of business confidentiality with respect to information that is submitted to EPA and ADEM under 335-14-1 through 335-14-6 and 335-14-9.

2. 335-14-1-.01(3) establishes rules of grammatical construction for Division 335-14-1 through 335-14-6 and 335-14-9.

3. 335-14-1-.02 defines terms which are used in Division 335-14-1 through 335-14-6 and 335-14-9.

4. 335-14-1-.03(1) establishes procedures for petitioning ADEM and EPA to amend, modify, or revoke any provision of Division 335-14-1 through 335-14-6 and 335-14-9 and establishes procedures for governing ADEM action on such petitions.

5. 335-14-1-.03(1) establishes procedures for petitioning ADEM to approve testing methods as equivalent to those prescribed in 335-14-2, 335-14-5, or 335-14-6.

6. 335-14-1-.03(2) establishes procedures for petitioning ADEM to amend 335-14-2-.04 to exclude a waste from a particular facility.

7. 335-14-1-.03(3) establishes procedures for petitioning ADEM to include a waste in 335-14-11.

[**Note:** Generators cannot petition ADEM under rules 335-14-1-.03 and 335-14-11-.07 until the Department has received authorization from EPA for this revision of the Department's base program.]

(c) Unless specified otherwise by citation to the Code of Federal Regulations (CFR) or other authority, all citations to Divisions, rules, paragraphs, and subparagraphs are to the Alabama Department of Environmental Management Administrative Code.

(d) Unless specified otherwise in Division 335-14, reports, notices, permit applications and all other submissions required by Division 335-14 shall be addressed to the following:

1. If such submission is to the Director,

Mail:

Director
Alabama Department of Environmental Management
P. O. Box 301463
Montgomery, AL 36130-1463

Hand Delivery:

Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059

2. If such submission is to the Department,

Mail:

Chief, Land Division
Alabama Department of Environmental Management
P. O. Box 301463
Montgomery, AL 36130-1463

Hand Delivery:

Chief, Land Division
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059

(e) Certain submissions required by Division 335-14 involve the practice of engineering and/or land surveying, as those terms are defined in Code of Alabama 1975, as amended, § 34-11-1 to 34-11-37; and/or the practice of geology, as that term is defined in Code of Alabama 1975, as amended, § 34-41-1 to 34-41-24. It is the responsibility of any person preparing or submitting such submissions to ensure compliance with these laws and any regulations promulgated thereunder, as may be required by the Alabama Board of Licensure for Professional Engineers and Land Surveyors and/or the Alabama Board of Licensure for Professional Geologists. All submissions, or parts thereof, which are required by State of Alabama law to be prepared by a licensed engineer, land surveyor, or geologist, must include the engineer's, land surveyor's, and/or geologist's signature and/or seal, as required by the applicable licensure laws.

- (2) Availability of information; confidentiality of information.

(a) Any information provided to EPA under Parts 260 through 265 and 268 of 40 CFR will be made available to the public to the extent and in the manner authorized by the Freedom of Information Act, 5 U.S.C. Section 552, Section 3007(b) of RCRA and EPA regulations implementing the Freedom of Information Act and Section 3007(b), Part 2 of 40 CFR, as applicable. Any information provided to ADEM under 335-14-1 through 335-14-6 and 335-14-9 will be made available to the public to the extent and in the manner authorized by the ADEM Administrative Code 335-1-1-.06.

(b) Any person who submits information to EPA in accordance with Parts 260 through 266 and 268 of 40 CFR may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in § 2.203(b) of 40 CFR. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Part 2, Subpart B, of 40 CFR except that information required by § 262.53(a) and § 262.83 that is submitted in notification of intent to export a hazardous waste will be provided to the Department of State and the appropriate authorities in a receiving country regardless of any claims of confidentiality. However, if no such claim accompanies the information when it is received by EPA, it may be made available to the public without further notice to the person submitting it. Any person who submits information to ADEM in accordance with 335-14-1 through 335-14-7 and 335-14-9 may assert a claim of business confidentiality in accordance with the ADEM Administrative Code 335-1-1-.06.

(3) Use of number and gender. As used in Division 335-14:

(a) Words in the masculine gender also include the feminine and neuter genders; and

(b) Words in the singular include the plural; and

(c) Words in the plural include the singular.

Author: Stephen C. Maurer; Michael B. Jones; Amy P. Zachry; Stephen A. Cobb; C. Edwin Johnston; Heather M. Jones.

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

History: April 9, 1986.

Amended: February 15, 1988; August 24, 1989; January 5, 1995; January 12, 1996; March 28, 1997; March 27, 1998; April 2, 1999; March 31, 2000; April 13, 2001; March 15, 2002; April 4, 2006. XXXXX, 2013.