

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management
Rule No. 335-14-3-.04
Rule Title: Recordkeeping and Reporting

 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-.04

Recordkeeping and Reporting.

(1) Recordkeeping.

(a) A generator must keep a copy of each manifest signed in accordance with 335-14-3-.02(4)(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

(b) A generator must keep a copy of each Biennial Report, Exception Report, and Closure Report for a period of at least three years from the due date of the report.

(c) A generator must keep records of any test results, waste analyses, or other determinations made in accordance with 335-14-3-.01(2) for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

(d) The periods of retention referred to in 335-14-3-.04(1) are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Department.

(e) A generator who transports hazardous waste or offers hazardous waste for transportation off-site must have a program in place to reduce the volume and toxicity of such waste to the degree determined by the generator to be economically practicable. A generator must document this program in a written waste minimization plan.

1. The waste minimization plan must include:

(i) ~~a~~A list of hazardous waste generated at the facility;

(ii) ~~r~~Records of the types, amounts, and destinations of hazardous wastes generated on-site, and descriptions of the methods used by the generator to track the types, amounts, and destinations of hazardous wastes generated on-site;

(iii) ~~d~~Descriptions of activities responsible for hazardous waste generation, and descriptions of opportunities to reduce the volume and/or toxicity of wastes generated by those activities;

(iv) ~~d~~Descriptions of actions that have been taken, are being taken, and will be taken by the generator to reduce the volume and/or toxicity of wastes generated by each activity responsible for hazardous waste generation; and

(v) ~~r~~Records (such as copies of hazardous waste manifests, billing statements, etc.) demonstrating the degree to which the actions taken by the generator have reduced the volume and/or toxicity of hazardous wastes generated on-site.

2. The waste minimization plan must be kept on-site. The plan must be furnished upon request, and made available at all reasonable times for inspection, by any duly designated officer, employee, or representative of the Department.

(f) All records, including plans, required under 335-14-3 must be furnished upon request, and made available at reasonable times for inspection by any officer, employee, or representative of the Department.

(2) Biennial report.

(a) A generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must prepare and submit a single copy of a Biennial Report to the Department by March 1 of each even numbered year. The Biennial Report must be submitted on the Hazardous Waste Generator Biennial Report form supplied by the Department and must cover generator activities during the previous calendar year and must include the following information:

1. The EPA identification number, name, and address of the generator;
2. The calendar year covered by the report;
3. The EPA identification number, name, and location address for each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the year;
4. The name and EPA identification number of each transporter used during the reporting year for shipments to a treatment, storage, or disposal facility within the United States;
5. A description, EPA hazardous waste number, United States Department of Transportation hazard class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage, or disposal facility within the United States. This information must be listed by EPA identification number of each such off-site facility to which waste was shipped;
6. A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.
7. A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.
8. The certification signed by the generator or authorized representative; and
9. Any other information requested in the instructions to the Hazardous Waste Generator Biennial Report form.

(b) Any generator who treats, stores, or disposes of hazardous waste on-site must submit a biennial report covering those wastes in accordance with the provisions of Chapters 335-14-5, 335-14-6, 335-14-7, and 335-14-8. Reporting for exports of hazardous waste is not required on the Biennial Report form. A separate annual report requirement is set forth in 335-14-3-.05(7).

(3) Exception reporting.

(a) 1. A large quantity generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

2. A large quantity generator must submit an Exception Report to the Department if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

(ii) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(b) A small quantity generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the Department.

(c) A generator must notify the Department in writing within 15 days after receiving a manifest that was the subject of a previous Exception Report submitted to the Department. This notification must include a legible copy of the manifest returned to the generator by the designated facility.

(d) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest [following the procedures of 335-14-5-.05(3)(e)1. through 6. or 335-14-6-.05(3)(e)1. through 6.] the generator must comply with the requirements of 335-14-3-.04(3)(a) or (b), as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of 335-14-3-.04(3)(a) or (b) for a shipment forwarding such waste to an alternate facility by a designated facility:

1. The copy of the manifest received by the generator must have the handwritten signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility, and

2. The ~~35-~~/~~45-~~/and 60-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

(4) Closure reporting.

(a) A large quantity generator who closes, ceases storage in, or moves a hazardous waste container storage area, tank system, drip pad, and/or containment building (a "unit") must notify the Department in writing no less than 45 days prior to the expected date of beginning closure. The notification must include:

1. The generator's name, address, and EPA Identification Number;
2. The date closure is expected to begin, and a timeframe for completing closure activities (not to exceed 180 days);
3. A description of the units to be closed, and a site diagram identifying each unit;
4. The procedures to be used for closure;
5. The type and maximum volume of hazardous wastes stored in the unit at any time and the associated EPA hazardous waste numbers;
6. The type and amount of hazardous waste expected to be stored in the unit at the time closure activities are expected to begin;
7. The conditions of the unit(s) at the time of the notification; and
8. Plans for hazardous waste determinations on, and proper management and disposal of, stored wastes, unit components, investigation derived wastes, and decontamination wastes.

(b) Within 45 Days after completion of closure the owner or operator must provide a written report documenting the procedures used to comply with Rule(s) 335-14-3-.03(5)(a)5., 335-14-6-.09(9), 335-14-6-.10(8), 335-14-6-.23(6), and/or 335-14-6-.30(3).

(c) A large quantity generator who ceases hazardous waste operations completely whether due to efficient waste minimization, the generator moving to another location, or the generator ceasing operation altogether must notify the Department in writing no more than 45 days following the stoppage of hazardous waste operations. The notification must include:

1. The generator's name, address, and EPA Identification Number;
2. The date the cease of hazardous waste operations occurred/will occur; and
3. A description of any required closure activities to be carried out in accordance with 335-14-3-.04.

(5) Additional reporting. The Department, as it deems necessary, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in Chapter 335-14-2.

(6) Special requirements for Small Quantity Generators. A Small Quantity Generator is subject only to the following requirements in 335-14-3-.04:

- (a) 335-14-3-.04(1)(a), (c), (d), and (e), recordkeeping;
- (b) 335-14-3-.04(3)(b), exception reporting; and
- (c) 335-14-3-.04(5), additional reporting.

Authors: Stephen C. Maurer; Michael B. Champion; C. Edwin Johnston; Bradley N. Curvin; Theresa A. Maines; Heather M. Jones; Metz Duites; Vernon H. Crockett.

Statutory Authority: Code of Alabama 1975, §§22-30-11, 22-30-14, 22-30-17, 22-30-18.

History: November 19, 1980.

Amended: April 9, 1986; September 29, 1986; August 24, 1989; December 6, 1990; March 28, 1997; April 13, 2001; March 31, 2005; April 4, 2006; April 3, 2007; May 27, 2008; March 31, 2009; March 31, 2011; XXXXX,XXXX.