

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management
Rule No. 335-14-7-.03
Rule Title: Recyclable Materials Used in a Manner Constituting Disposal

 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

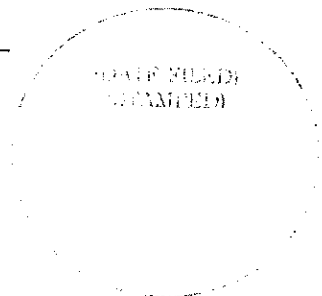
If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

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



335-14-7-.03 Recyclable Materials Used in a Manner Constituting Disposal.

(1) Applicability.

(a) The requirements of 335-14-7-.03 apply to recyclable materials that are applied to or placed on the land:

1. Without mixing with any other substance(s); or
2. After mixing or combining with any other substance(s). These materials will be referred to throughout 335-14-7-.03 as "materials used in a manner that constitutes disposal".

(b) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in rule 335-14-9-.04 (or applicable prohibition levels in 335-14-9-.03(13) or RCRA Section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain, and the recycler complies with 40 CFR 268.7(b)(6).

(c) Anti-skid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in 335-14-7-.03(1)(b) and remain subject to regulation.

(d) Fertilizers that contain recyclable materials are not subject to regulation provided that:

1. They are zinc fertilizers excluded from the definition of solid waste according to 335-14-2-.01(4)(a)20; or
2. They meet the applicable treatment standards in 335-14-9-.04(1) for each hazardous waste that they contain.

(2) Standards applicable to generators and transporters of materials used in a manner that constitutes disposal.

Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of Chapters 335-14-3 and 335-14-4, ~~including the notification requirement under Section 3010 of RCRA.~~

(3) Standards applicable to storers of materials that are to be used in a manner that constitutes disposal who are not the ultimate users.

Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of rules 335-14-5-.01 through 335-14-5-.12 and 335-14-6-.01 through 335-14-6-.12 and Chapter 335-14-8, and the notification requirement under ~~Section 3010 of RCRA~~ 335-14-3-.01(3) and 335-14-3-.01(4).

(4) Standards applicable to users of materials that are used in a manner that constitutes disposal.

(a) Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of rules 335-14-5-.01 through 335-14-5-.14 and 335-14-6-.01 through 335-14-6-.14, Chapter 335-14-8 and Chapter 335-14-9, and the notification requirement under Section 3010 of RCRA. (These regulations do not apply to products which contain these recyclable materials under the provisions of 335-14-7-.03(1)(b).)

(b) The use of waste or used oil or other material, which is contaminated with dioxin or any other hazardous waste (other than a waste identified solely on the basis of ignitability), for dust suppression or road treatment is prohibited.

Author: Stephen C. Maurer; C. Edwin Johnston; Bradley N. Curvin; Vernon H. Crockett.

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

History: April 9, 1986.

Amended: September 29, 1986; February 15, 1988; August 24, 1989; December 6, 1990; April 28, 1995; April 13, 2001; April 17, 2003, May 27, 2004; April 4, 2006; March 26, 2013; XXXXX, XXXX.