

APA-2
11/96

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE:

335-14-2-.01	<u>General</u> (Amend)
335-14-2-.04	<u>Lists of Hazardous Waste</u> (Amend)
335-14-2-Appendix VIII	<u>Hazardous Constituents</u> (Amend)
335-14-2-Appendix IX	<u>Wastes Excluded Under 335-14-1-.03(2)</u> (Amend)

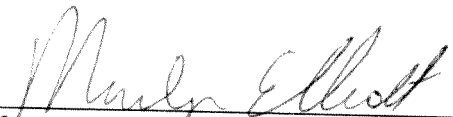
INTENDED ACTION: Revise Division 14 of the ADEM Administrative Code.

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 Monday, December 5, 2011 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: Monday, December 5, 2011 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

335-14-2-APPENDIX IX Wastes Excluded Under 335-14-1-.03(2).

TABLE 1 - WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Site	Waste Description
Ampex Recording Media Corp. Opelika, AL ALD 003 297 116	Solvent recovery residues in the powder or pellet form (EPA Hazardous Waste Nos. F003 and F005) generated from the recovery of spent solvents from the manufacture of tape recording media (generated at a maximum annual rate of 1,000 cubic yards in the powder or pellet form) after August 9, 1993. In order to confirm that the characteristics of the wastes do not change significantly, the facility must, on an annual basis, analyze a representative composite sample of the waste (in its final form) for the constituents listed in rule 335-14-2-.03(5) using the method specified therein. The annual analytical results, including quality control information, must be compiled, certified according to rule 335-14-1-.03(2)(i)15., maintained on-site for a minimum of five years, and made available for inspection upon request by any employee or representative of the EPA or the State of Alabama. Failure to maintain the required records on-site will be considered by the EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the EPA.
Hoechst Celanese Corp. Bucks, AL ALD 056 113 756	Distillation bottoms generated (at a maximum annual rate of 31,500 cubic yards) from the production of sodium hydrosulfite (EPA Hazardous Waste No. F003). This exclusion was published by the EPA on July 17, 1990. This exclusion does not include the waste contained in Hoechst Celanese's on-site surface impoundment.
Honda Manufacturing of Alabama, LLC Lincoln, AL ALR000016261	Wastewater treatment sludge; (EPA Hazardous Waste No. F019); that is generated at the Honda Manufacturing of Alabama, LLC (Honda) facility. The sludge will not be subject to the F019 listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a facility that is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with ADEM Admin. Code Division 335-13, Solid Waste Program for recycling, for incineration, or for disposal in a lined landfill with leachate collection. The exclusion became effective as of December 10, 2007.

(1) Hazardous Waste Determination. To demonstrate that the waste continues to be non-hazardous waste, Honda must perform a waste determination as required by ADEM Admin. Code r. 335-14-3-.01(2) on the sludge at least every three years. In addition, the waste must be managed according to all requirements found in ADEM Admin. Code r. 335-14-3. If at any time the waste is determined to be hazardous, Honda must immediately manage the sludge as a hazardous waste as required by ADEM Admin. Code Division 335-14.

TABLE 1 - WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Site	Waste Description
	<p data-bbox="570 331 1479 699">(2) Records Documentation. Onsite records documentation must include: hazardous waste determinations, the volume of waste generated and disposed of off site; documentation showing when the waste volumes were generated and sent off site; the name and address of the receiving facility, and documentation confirming receipt of the waste by the receiving facility. These documents must be maintained on site for no less than three years. The retention period for the documentation is automatically extended during the course of any enforcement action or as requested by ADEM.</p> <p data-bbox="631 720 976 747">(3) Reopener Language.</p> <p data-bbox="561 768 1479 1094">(A) If, anytime after disposal of the delisted waste, Honda possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) relevant to the delisted waste at the facility indicating that any constituent is at a level in the leachate higher than the specified delisting level, or is in the groundwater at a concentration higher than the maximum allowable groundwater concentration, then Honda must report such data in writing to ADEM within 10 days of first possessing or being made aware of that data.</p> <p data-bbox="566 1115 1479 1377">(B) Based on the information described in paragraph (A) and any other information received from any source, ADEM will make a preliminary determination as to whether the reported information requires departmental action to protect human health or the environment. Further action may include suspending or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.</p> <p data-bbox="555 1398 1479 1703">(C) If ADEM determines that the reported information does require Department action, ADEM will notify Honda in writing of the actions the Department believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing Honda with an opportunity to present information as to why the proposed departmental action is not necessary or to suggest an alternative action. Honda shall have 30 days from the date of the ADEM's notice to present the information.</p> <p data-bbox="553 1724 1479 1913">(D) If after 30 days Honda presents no further information, ADEM will issue a final written determination describing the Department's actions that are necessary to protect human health or the environment. Any required action described in the ADEM's determination shall become effective immediately, unless the Department provides otherwise.</p>

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Site	Waste Description
<u>Mercedes-Benz U.S. International, Inc. Vance, AL ALR00002246</u>	<p><u>Wastewater treatment sludge (EPA Hazardous Waste No. F019) generated at the Mercedes-Benz U.S. International, Inc. (MBUSI) facility. The sludge will not be subject to the F019 listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a facility that is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with ADEM Admin. Code Division 335-13, Solid Waste Program for recycling, incineration, or disposal in a lined landfill with leachate collection. The exclusion became effective as of July 20, 2009.</u></p> <p><u>(1) Hazardous Waste Determination. To demonstrate that the waste continues to be a non-hazardous waste, MBUSI must perform a waste determination as required by ADEM Admin. Code r. 335-14-3-.01(2) on the sludge at least every three years. In addition, the waste must be managed according to all requirements found in ADEM Admin. Code r. 335-14-3. If at any time the waste is determined to be hazardous, MBUSI must immediately manage the sludge as a hazardous waste as required by ADEM Admin. Code div. 335-14.</u></p> <p><u>(2) Records Documentation. Onsite records documentation must include: hazardous waste determinations, the volume of waste generated and disposed of offsite; documentation showing when the waste volumes were generated and sent off site; the name and address of the receiving facility; and documentation confirming receipt of the waste by the receiving facility. These documents must be maintained on site for no less than three years. The retention period for the documentation is automatically extended during the course of any enforcement action or as requested by the Department.</u></p> <p><u>(3) Reopener Language.</u></p> <p><u>(A) If, anytime after disposal of the delisted waste, MBUSI possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) relevant to the delisted waste at the facility indicating that any constituent is at a level in the leachate higher than the specified delisting level, or is in the groundwater at a concentration higher than the maximum allowable groundwater concentration, then MBUSI must report such data in writing to the Department within 10 days of first possessing or being made aware of that data.</u></p> <p><u>(B) Based on the information described in paragraph (A) and any other information received from any source, the Department will make a preliminary determination as to</u></p>

TABLE 1 - WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Site	Waste Description
	<p><u>whether the reported information requires departmental action to protect human health or the environment. Further action may include suspending or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.</u></p> <p><u>(C) If ADEM determines that the reported information does require Department action, ADEM will notify MBUSI in writing of the actions the Department believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing MBUSI with an opportunity to present information as to why the proposed departmental action is not necessary or to suggest an alternative action. MBUSI shall have 30 days from the date of the Department's notice to present the information.</u></p> <p><u>(D) If after 30 days MBUSI presents no further information, ADEM will issue a final written determination describing the Department's actions that are necessary to protect human health or the environment. Any required action described in the Department's determination shall become effective immediately, unless the Department provides otherwise.</u></p>
Reynolds Metals Company Sheffield, AL ALD 053 365 160	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F019) generated (at a maximum annual rate of 3,840 cubic yards) from the chemical conversion coating of aluminum after August 15, 1986.

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Site	Waste Description
Reynolds Metals Company Sheffield, AL ALD 095 687 679	Wastewater treatment press sludge (EPA Hazardous Waste No. F019) generated (at a maximum annual rate of 3,840 cubic yards) from the chemical conversion coating of aluminum. This exclusion was published July 17, 1990.
SONY Magnetic Products of America. Dothan, AL ALD 040 653 636	Solvent recovery residues in the powder form (EPA Hazardous Waste Nos. F003 and F005) generated from the recovery of spent solvents from the manufacture of tape recording media (generated at a maximum annual rate of 200 cubic yards) after March 31, 2004. In order to confirm that the characteristics of the wastes do not change significantly, the facility must, on an annual basis, analyze a representative composite sample of the waste (in its final form) for the constituents listed in rule 335-14-2-.03(5) using the method specified therein. The annual analytical results, including quality control information, must be compiled, certified according to rule 335-14-1-.03(2)(i)15., maintained on-site for a minimum of five years, and made available for inspection upon request by any employee or representative of the EPA or the State of Alabama. Failure to maintain the required records on-site will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Alabama Department of Environmental Management.
Universal Oil Products Decatur, AL ALD 053 363 776	Wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations and contained in two on-site lagoons on August 15, 1986. This is a one-time exclusion.

TABLE 2 - WASTES EXCLUDED FROM SPECIFIC SOURCES

Site	Waste Description
Akzo Chemicals Inc. (formerly Stauffer Chemical Company) Axis, AL ALD 008 161 176	Brine purification muds generated from their chlor-alkali manufacturing operations (EPA Hazardous Waste No. K071) and disposed of in brine mud pond HWTF: 5 EP-201.
Occidental Chemical Corporation Muscle Shoals Plant Sheffield, AL ALD 004 019 642	<p>Retorted wastewater treatment sludge from the mercury cell process in chlorine production (EPA Hazardous Waste No. K106) after September 19, 1989. This exclusion is conditional upon the submission of data obtained from Occidental's full-scale retort treatment system because Occidental's original data were based on a pilot-scale retort system. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern once the full-scale treatment facility is in operation, Occidental must implement a testing program. All sampling and analyses (including quality control procedures) must be performed using appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW-846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. As applicable, the SW-846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B. This testing program must meet the following conditions for the exclusion to be valid:</p> <p>(1) Initial Testing - During the first four weeks of full-scale retort operation, Occidental must do the following:</p> <p>(A) Collect representative grab samples from every batch of retorted material and composite the grab samples to produce a weekly composite sample. The weekly composite samples, prior to disposal or recycling, must be analyzed for the EP leachate concentrations of all the EP toxic metals (except mercury), nickel, and cyanide (using distilled water in the cyanide extractions). Occidental must report the analytical test data, including all quality control data, obtained during this initial period no later than 90 days after the treatment of the first full-scale batch.</p> <p>(B) Collect representative grab samples of every batch of retorted material prior to its disposal or recycling and</p>

analyze the sample for EP leachate concentration of mercury. Occidental must report the analytical test data, including all quality control data, within 90 days after the treatment of the first full-scale batch.

(2) Subsequent Testing - After the first four weeks of full-scale retort operation, Occidental must do the following:

(A) Continue to sample and test as described in Condition (1)(A). Occidental must compile and store on-site for a minimum of three years all analytical data and quantity control data. These data must be furnished upon request and made available for inspection by any employee or representative of the EPA or the State of Alabama. These testing requirements shall be terminated by the EPA and the Department when the results of four consecutive weekly composite samples of the petitioned waste, obtained from either the initial testing or subsequent testing show the maximum allowable levels in Condition (3) are not exceeded and the Section Chief, Variances Section, and the Department notifies Occidental that the requirements of this condition have been lifted.

(B) Continue to sample and test for mercury as described in Condition (1)(B). Occidental must compile and store on-on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of the EPA or the State of Alabama. These testing requirements shall remain in effect until Occidental provides the EPA and the Department with analytical and quality control data for 30 consecutive batches of retorted material, collected as described in Condition (1)(B), demonstrating that the EP leachable levels of mercury are below the maximum allowable level in Condition (3) and the Section Chief, Variances Section, and the Department notifies Occidental that the testing in Condition (2)(B) may be replaced with (2)(C).

(C) [If the conditions in (2)(B) are satisfied, the testing requirements for mercury in (2)(B) shall be replaced with the following condition.] Collect representative grab samples from every batch of retorted material on a daily basis and composite the grab samples to produce a weekly composite sample. Occidental must analyze each weekly composite sample prior to its disposal or recycling for the EP leachate concentration of mercury. Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by an employee or representative of the EPA or the State of Alabama.

(3) If, under Condition (1) or (2), the EP leachate concentrations for chromium, lead, arsenic, or silver exceed 1.616 mg/l; for barium exceeds 32.3 mg/l; for cadmium or selenium exceed 0.323 mg/l; for mercury exceeds 0.065 mg/l; for nickel exceeds 16.15 mg/l; or for cyanide exceeds 22.61 mg/l, the waste must either be retreated until it meets these levels or managed and disposed of in accordance with Subtitle C of RCRA.

(4) Within one week of system start-up, Occidental must notify the Section Chief, Variances Section (see address below) and the Department when the full-scale retort system is on-line and waste treatment has begun. All data obtained through Condition (1) must be submitted to the Section Chief, Variances Section, PSPD/OSW (OS-343), U.S. EPA, 401 M Street SW, Washington, DC 20460 and the Director of the Department within the time period specified in Condition (1). At the Section Chief's or the Director's request, Occidental must submit any other analytical data obtained through Condition (2) to the above address, and to the Department within the time period specified by the Section Chief or the Department. Failure to submit the required data will be considered by the Agency or the Department sufficient basis to revoke Occidental's exclusion to the extent directed by the EPA and the Department. All data must be accompanied by the following certification statement:

"Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of State of Alabama law and the Federal Code which include, but may not be limited to, 18 U.S.C. 6926), I certify that the information contained in or accompanying this document is true, accurate and complete.

As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

In the event that any of this information is determined by the EPA or the Department in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of wastes will be void as if it never had effect or to the extent directed by the EPA or the Department and that the company will be liable for any actions taken in contravention of the company's AHWMMMA,

RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion."

Author: Stephen C. Maurer; Philip Woods; Bradley N. Curvin; Theresa A. Maines; James K. Burgess; Ronisha A. Moncrief.

Statutory Authority: Code of Alabama 1975, §§ 22-30-10 and 22-30-11.

History: November 19, 1980.

Amended: February 15, 1988; August 24, 1989, December 6, 1990; January 25, 1992; January 5, 1995; March 27, 1998; April 4, 2006; April 3, 2007; May 27, 2008, March 31, 2009; March 30, 2010; XXXXXXX.