

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
Rule No. 335-14-3-.03
Rule Title: Pre-Transport Requirements

_____ New 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 September 20, 2011

APA-2
11/96

**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE: 335-14-3-.01 General (Amend)
335-14-3-.03 Pre-Transport Requirements (Amend)
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 (Amend)
335-14-3-.12 Alternative Requirements for Hazardous Waste
Determination and Accumulation of Unwanted
Material for Laboratories Owned by Eligible
Academic Entities (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

335-14-3-.03 Pre-Transport Requirements.

(1) Packaging. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable United States Department of Transportation regulations on packaging under 49 CFR Parts 173, 178, and 179. Failure to properly package the waste in accordance with the applicable United States Department of Transportation regulations is a violation of 335-14-3-.03(1).

(2) Labeling. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable United States Department of Transportation regulations on hazardous materials under 49 CFR Part 172. Failure to properly label the waste in accordance with the applicable United States Department of Transportation regulations is a violation of 335-14-3-.03(2).

(3) Marking.

(a) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable United States Department of Transportation regulations on hazardous materials under 49 CFR Part 172;

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 119 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 CFR § 172.304:

HAZARDOUS WASTE - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address _____

Generator's EPA Identification Number _____

Manifest Tracking Number _____

(c) Failure to properly mark the waste packages or containers in accordance with the applicable United States Department of Transportation regulations and the requirements of 335-14-3-.03(3) is a violation of 335-14-3-.03(3).

(4) Placarding. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of

Transportation regulations for hazardous materials under 49 CFR Part 172, Subpart F. Failure to properly placard or offer to the initial transporter the appropriate placards in accordance with the applicable Department of Transportation regulations is a violation of 335-14-3-.03(4).

(5) Accumulation time.

(a) Except as provided in 335-14-3-.03(5)(d), (e), (f), and (g) a large quantity generator may accumulate hazardous waste which is generated on-site for 90 days or less without a permit or without having interim status, provided that:

1. The waste is placed:

(i) In containers and the generator complies with the applicable requirements of 335-14-6-.09, 335-14-6-.27 through 335-14-6-.29; and/or

(ii) In tanks and the generator complies with the applicable requirements of 335-14-6-.10, 335-14-6-.27 through 335-14-6-.29, except 335-14-6-.10(8)(e) and 335-14-6-.10(11); and maintains the following records at the site:

(I) A description of procedures that will be followed to ensure that all wastes are removed from the tank system at least once during each accumulation period (90 days for a large quantity generators, 180 days for a small quantity generator); and

(II) Documentation of each waste removal, including the quantity of waste removed from the tank and the date and time of removal; and/or

(iii) On drip pads and the generator complies with 335-14-6-.23 and maintains the following records at the site:

(I) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(II) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

(iv) In containment buildings and the generator complies with 335-14-6-.30, and has placed its professional engineer certification that the building complies with the design standards specified in 335-14-6-.30(2) in the generator's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, a professional engineer's certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the site:

(I) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of

the waste generation and management practices for the generator showing that they are consistent with respecting the 90 day limit, and documentation that the procedures are complied with; or

(II) Documentation that the unit is emptied at least once every 90 days.

[Note: In addition, such a generator is exempt from all the requirements of rules 335-14-6-.07 and 335-14-6-.08, except for 335-14-6-.07(2) and 335-14-6-.07(5).]

2. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

3. While being accumulated on-site each container and tank is labeled or marked clearly with the words, "Hazardous Waste" and the EPA hazardous waste number; and

4. The generator complies with the requirements for owners or operators in rules 335-14-6-.03 and 335-14-6-.04, with 335-14-6-.02(5), 335-14-6-.02(6)(c), 335-14-6-.02(6)(d), 335-14-6-.02(7), 335-14-6-.02(8)(a), 335-14-6-.05(5)(a), 335-14-6-.05(5)(b), and all applicable requirements under 335-14-9.

5. Upon ceasing to operate, or moving, or if the generator closes for business, the generator closes each container storage area, storage tank, drip pad, and containment building in a manner that:

(i) Minimizes the need for further maintenance; and

(ii) Controls, minimizes, or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere; and

(iii) Complies with the closure requirements of 335-14-3-.03 and the applicable requirements of 335-14-6-.09(9), 335-14-6-.10(8), 335-14-6-.23(6), and 335-14-6-.30(3), and the record keeping requirements of rules 335-14-3-.04(1)(c) and 335-14-3-.04(4).

6. The generator maintains sufficient documentation to demonstrate the quantity of hazardous waste generated each calendar month. This documentation must be retained on-site for at least three years from the date the waste was generated.

(b) A large quantity generator who accumulates hazardous waste or acute hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 335-14-5 and 335-14-6, and the permit requirements of 335-14-8 unless he has been granted an extension to the 90 day period. Such extension may be granted by the Department if hazardous

wastes must remain on-site for more than 90 days due to unforeseeable, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Department on a case-by-case basis upon written request from the generator submitted prior to the expiration of the 90-day period.

(c) 335-14-3-.03(5)(c) establishes standards for satellite accumulation:

1. A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste as listed in 335-14-2-.04(2) or (4)(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with 335-14-3-.03(5)(a) or (d) provided he:

- (i) Complies with 335-14-6-.09(2), (3), and (4)(a); and
- (ii) Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

2. A generator who accumulates either hazardous waste or acutely hazardous waste listed in 335-14-2-.04(2) or (4)(e) in excess of the amounts listed in 335-14-3-.03(5)(c)1. at or near any point of generation must, with respect to the initial amount of waste (55 gallons of hazardous waste or one quart of acutely hazardous waste), comply within three days with 335-14-3-.03(5)(a) or other applicable provisions of Division 335-14. During the three-day period, the generator must continue to comply with 335-14-3-.03(5)(c)1.(i) and (ii). The generator must mark the container holding the initial amount of hazardous waste with the date the initial amount was reached.

[Note: For the purpose of this rule, the phrase "at or near any point of generation" may include areas that are not visible from the point of generation if the use of such an area is necessary for safety reasons (i.e., the waste is flammable or reactive and the point of generation is in an area containing ignition sources or heavy traffic), so long as the location is quickly and easily accessible to the operator of the process generating the waste.]

(d) A small quantity generator may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that:

1. The quantity of waste accumulated on-site never exceeds 6000 kilograms;
2. For accumulation in containers, the generator complies with the requirements of 335-14-6-.09 except 335-14-6-.09(7) and (10);
3. For accumulation in tanks, the generator complies with the requirements of 335-14-6-.10(12) which outlines hazardous waste tank inspection and documentation requirements for small quantity generators; and maintains the following records at the site:

(i) A description of procedures that will be followed to ensure that all wastes are removed from the tank system at least once during each accumulation period; and

(ii) Documentation of each waste removal, including the quantity of waste removed from the tank and the date and time of removal.

4. For accumulation on drip pads, the generator complies with 335-14-6-.23 and maintains the following records at the site:

(i) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every ~~180~~90 days; and

(ii) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

[Note: Small quantity generators may utilize drip pads only if they comply with the large quantity generator requirements of 335-14-3-.03(5)(a), including the 90-day limitation for on-site accumulation.]

5. The generator complies with the requirements of 335-14-3-.03(5)(a)2. and (a)3., the requirements of 335-14-6-.03, with all applicable requirements under 335-14-9; and

6. The generator complies with the following requirements:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the site within a short period of time) with the responsibility for coordinating all emergency response measures specified in 335-14-3-.03(5)(d)6.(iv). This employee is the emergency coordinator.

(ii) The generator must post the following information next to the telephone:

(I) The name and telephone number of the emergency coordinator;

(II) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(III) The telephone number of the fire department, unless the generator has a direct alarm.

(iii) Employees must complete an initial training program in hazardous waste management within six months after the date of their employment or assignment to a new position, whichever is later. Employees must not work in unsupervised positions until they have completed the training requirements of 335-14-6-.02(7)(b).

(I) The training program must be designed to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal site operations and emergencies;

(II) The generator must maintain at the site documentation that the required training has been administered to and completed by required employees. Documentation of training records must be maintained on-site for a period of at least three years from the date the employee last worked for the generator or until the generator closes, whichever comes first.

(III) The generator must maintain on-site a written description of the training required under 335-14-3-.03(5)(d)6.(iii).

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(I) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(II) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil;

(III) In the event of a fire, explosion, or other release which could threaten human health or the environment off-site or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the Alabama Emergency Management Agency (800/843-0699, 24 hours a day) and the National Response Center (using their 24-hour toll free number 800/424-8802 or 202/267-2675).

The report must include the following information:

I. The name, address, and U.S. EPA Identification Number of the generator;

II. Date, time, and type of incident (e.g., spill or fire);

III. Quantity and type of hazardous waste involved in the incident;

IV. Extent of injuries, if any; and

V. Estimated quantity and disposition of recovered materials, if any.

7. The generator maintains sufficient documentation to demonstrate the quantity of hazardous waste generated each calendar month. This documentation must be retained on-site for at least three years from the date the waste was generated.

(e) A small quantity generator may accumulate hazardous waste in satellite containers in accordance with 335-14-3-.03(5)(c).

(f) A small quantity generator who must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status provided that he complies with the requirements of 335-14-3-.03(5)(d).

(g) A small quantity generator who accumulates hazardous waste in quantities exceeding 6000 kilograms or accumulates hazardous waste for more than 180 days (or for more than 270 days if he must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 335-14-5, 335-14-6, and 335-14-8 unless he has been granted an extension to the 180-day (or 270-day, if applicable) period. Such extension may be granted by this Department if hazardous wastes must remain on-site for longer than 180 days (or 270 days, if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Department on a case-by-case basis.

(h) A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

1. The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering F006 or otherwise released to the environment prior to its recycling;

2. The F006 waste is legitimately recycled through metals recovery;

3. No more than 20,000 kilograms of F006 waste is accumulated on-site at any one time; and

4. The F006 waste is managed in accordance with the following:

(i) The F006 waste is placed:

(I) In containers and the generator complies with the applicable requirements of rules 335-14-6-.09, 6-.27, 6-.28, and 6-.29; and/or

(II) In tanks and the generator complies with the applicable requirements of rules 335-14-6-.10, 6-.27, 6-.28, and 6-.29, except 335-14-6-.10(8)(e) and 6-.10(11).

(III) In containment buildings and the generator complies with 335-14-6-.30, and has placed its professional engineer certification that the building complies with the design standards specified in 335-14-6-.30(2) in the generator's operating record prior to operation of the unit. The owner or operator must maintain the following records at the site:

I. A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the generator showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or

II. Documentation that the unit is emptied at least once every 180 days.

(ii) In addition, such a generator is exempt from all the requirements in 335-14-6-.07 and 6-.08, except for 335-14-6-.07(2) and (5).

(iii) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(iv) While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and

(v) The generator complies with the requirements for owners or operators in 335-14-6-.03 and 6-.04, with 335-14-6-.02(7), and with 335-14-9-.01(7).

(i) A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than 90 days, but not more than 270 days without a permit or without having interim status if the generator complies with the requirements of 335-14-3-.03(5)(h)1. through 4.

(j) A generator accumulating F006 in accordance with 335-14-3-.03(5)(h) and (i) who accumulates F006 on-site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility and is subject to the requirements of 335-14-5, 335-14-6 and 335-14-8 unless the generator has been granted an extension to the 180-day (or 270-day, if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by ADEM if F006 waste must remain on-site for longer than 180 days (or 270 days, if applicable) or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the Department on a case-by-case basis.

(k) A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions

of 335-14-5-.05(3) or 335-14-6-.05(3) may accumulate the returned waste on-site in accordance with 335-14-3-.03(5)(a) and (b) or (d), (e) and (f), depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:

1. Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

2. Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

Author: Stephen C. Maurer; Amy P. Zachry; C. Edwin Johnston; Michael B. Champion; Bradley N. Curvin; Kelley Lockhart; Heather M. Jones; Marlon D. McMillan; James K. Burgess.

Statutory Authority: Code of Alabama 1975, §§ 22-30-11, 22-30-12 and 22-30-14.

History: November 19, 1980.

Amended: April 9, 1986; September 29, 1986; February 15, 1988; August 24, 1989; December 6, 1990; January 25, 1992; January 1, 1993; January 5, 1995; January 12, 1996; March 28, 1997; March 27, 1998; April 2, 1999; March 31, 2000; April 13, 2001; March 15, 2002; March 31, 2005; April 4, 2006; April 3, 2007; May 27, 2008; March 31, 2009; March 31, 2011;XXXXXXXX.