

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-14-11-.01
Rule Title: General

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 action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule?


NO

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 Services Agency.

Signature of certifying officer 

Date: July 21, 2020

(DATE FILED)
(STAMP)

REC'D & FILED
JUL 20 2020

LEGISLATIVE SVC AGENCY

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DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE:

335-14-11-.01 General (Amend)
335-14-11-.02 Standards for Small Quantity Handlers of Universal Waste (Amend)
335-14-11-.03 Standards for Large Quantity Handlers of Universal Waste (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 September 17, 2020 at 10:30 AM 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: September 17, 2020

CONTACT PERSON AT AGENCY: Sonja Favors, Chief of the Industrial Hazardous Waste Branch, ADEM Land Division (334-279-3067)


Lance R. LePieur
Director

335-14-11-.01 General.

(1) Scope.

(a) 335-14-11 establishes requirements for managing the following:

1. Batteries as described in 335-14-11-.01(2);
2. Pesticides as described in 335-14-11-.01(3);
3. Mercury-containing equipment as described in 335-14-11-.01(4); ~~and~~
4. Lamps as described in 335-14-11-.01(5); and
5. Aerosol cans as described in 335-14-11-.01(6).

(b) 335-14-11 provides an alternative set of management standards in lieu of regulation under 335-14-1 through 335-14-9.

(2) Applicability—batteries.

(a) Batteries covered under 335-14-11.

1. The requirements of 335-14-11 apply to persons managing batteries, as described in 335-14-1-.02, except those listed in 335-14-11-.01(2)(b).

2. Spent lead-acid batteries which are not managed under 335-14-7-.07 are subject to management under 335-14-11.

(b) Batteries not covered under 335-14-11. The requirements of 335-14-11 do not apply to persons managing the following batteries:

1. Spent lead-acid batteries that are managed under 335-14-7-.07.

2. Batteries, as described in 335-14-1-.02, that are not yet wastes under 335-14-2, including those that do not meet the criteria for waste generation in 335-14-11-.01(2)(c).

3. Batteries, as described in 335-14-1-.02, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in 335-14-2-.03.

(c) Generation of waste batteries.

1. A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).

2. An unused battery becomes a waste on the date the handler decides to discard it.

(3) Applicability—pesticides.

(a) Pesticides covered under 335-14-11. The requirements of 335-14-11 apply to persons managing pesticides, as described in 335-14-1-.02, meeting the following conditions, except those listed in 335-14-11-.01(3)(b):

1. Recalled pesticides that are:

(i) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under FIFRA section 19(b), including, but not limited to those owned by the registrant responsible for conducting the recall; or

(ii) Stocks of a suspended or cancelled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant.

2. Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.

(b) Pesticides not covered under 335-14-11. The requirements of 335-14-11 do not apply to persons managing the following pesticides:

1. Recalled pesticides described in 335-14-11-.01(3)(a)1., and unused pesticide products described in 335-14-11-.01(3)(a)2., that are managed by farmers in compliance with 335-14-3-.07(1). [335-14-3-.07(1) addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with 335-14-2-.01(7)(b)3.];

2. Pesticides not meeting the conditions set forth in 335-14-11-.01(3)(a). These pesticides must be managed in compliance with the hazardous waste regulations in 335-14-1 through 335-14-9, except that aerosol cans as defined in 332-14-1-.02 that contain pesticides may be managed as aerosol can universal waste under 335-14-11-.02(4)(e) and/or 335-14-11-.03(4)(e);

3. Pesticides that are not wastes under 335-14-2, including those that do not meet the criteria for waste generation in 335-14-11-.01(3)(c) or those that are not wastes as described in 335-14-11-.01(3)(d); and

4. Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in 335-14-2-.04 or if it exhibits one or more of the characteristics identified in 335-14-2-.03.

(c) When a pesticide becomes a waste.

1. A recalled pesticide described in 335-14-11-.01(3)(a)1. becomes a waste on the first date on which both of the following conditions apply:

(i) The generator of the recalled pesticide agrees to participate in the recall; and

(ii) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).

2. An unused pesticide product described in 335-14-11-.01(3)(a)2. becomes a waste on the date the generator decides to discard it.

(d) Pesticides that are not wastes. The following pesticides are not wastes:

1. Recalled pesticides described in 335-14-11-.01(3)(a)1., provided that the person conducting the recall:

(i) Has not made a decision to discard (e.g., burn for energy recovery) the pesticide. Until such a decision is made, the pesticide does not meet the definition of "solid waste" under 335-14-2-.01(2); thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including 335-14-11. This pesticide remains subject to the requirements of FIFRA; or

(ii) Has made a decision to use a management option that, under 335-14-2-.01(2), does not cause the pesticide to be a solid waste [i.e., the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery), or reclamation]. Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including 335-14-11. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA.

2. Unused pesticide products described in 335-14-11-.01(3)(a)2., if the generator of the unused pesticide product has not decided to discard (e.g., burn for energy recovery) them. These pesticides remain subject to the requirements of FIFRA.

(4) Applicability — mercury-containing equipment.

(a) Mercury-containing equipment covered under 335-14-11. The requirements of 335-14-11 apply to persons managing mercury-containing equipment, as described in 335-14-1-.02, except those listed in 335-14-11-.01(4)(b).

(b) Mercury-containing equipment not covered under 335-14-11. The requirements of 335-14-11 do not apply to persons managing the following mercury-containing equipment:

1. Mercury-containing equipment that is not yet a waste under 335-14-2. 335-14-11-.01(4)(c) describes when mercury-containing equipment becomes a waste;

2. Mercury-containing equipment that is not a hazardous waste. Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in 335-14-2-.03 or is listed in 335-14-2-.04.

3. Equipment and devices from which the mercury-containing components have been removed.

(c) Generation of waste mercury-containing equipment.

1. Used mercury-containing equipment becomes a waste on the date it is discarded.

2. Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

(5) Applicability—lamps.

(a) Lamps covered under 335-14-11. The requirements of 335-14-11 apply to persons managing lamps, as described in 335-14-1-.02, except those listed in 335-14-11-.01(5)(b).

(b) Lamps not covered under 335-14-11. The requirements of 335-14-11 do not apply to persons managing the following lamps:

1. Lamps that are not yet wastes under 335-14-2. 335-14-11-.01(5)(c) describes when lamps become wastes.

2. Lamps that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in 335-14-2-.03.

3. Lamps that are broken, crushed, or otherwise no longer intact are not to be handled as universal waste.

(c) Generation of waste lamps.

1. A used lamp becomes a waste on the date it is discarded (e.g., sent for reclamation).

2. An unused lamp becomes a waste on the date the handler decides to discard it.

(6) Applicability - aerosol cans

(a) Aerosol cans covered under 335-14-11. The requirements of 335-14-11 apply to persons managing aerosol cans, as described in 335-14-1-.02, except those listed in 335-14-11-.01(6)(b). [Reserved]

(b) Aerosol cans not covered under 335-14-11. The requirements of 335-14-11 do not apply to persons managing the following types of aerosol cans:

1. Aerosol cans that are not yet waste under 335-14-2. 335-14-11-.01(6)(c) describes when an aerosol can becomes a waste;

2. -Aerosol cans that are not hazardous waste. An aerosol can is a hazardous waste if the aerosol can exhibits one or more of the characteristics identified in 335-14-2-.03 or the aerosol can contains a substance that is listed in 335-14-2-.04; and

3. Aerosol cans that meet the standard for empty containers under 335-14-2-.01(7).

(c) Generation of waste aerosol cans.

1. A used aerosol can becomes a waste on the date it is discarded.

2. An unused aerosol can becomes a waste on the date the handler decides to discard it.

(7) [Reserved]

(8) Applicability—household and very small quantity generator waste.

(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of 335-14-11:

1. Household wastes that are exempt under 335-14-2-.01(4)(b)1. and are also of the same type as the universal wastes defined at 335-14-1-.02; and/or

2. Very small quantity generator wastes that are exempt under 335-14-3-.01(4) and are also of the same type as the universal wastes defined at 335-14-1-.02.

(b) Persons who commingle the wastes described in 335-14-11-.01(8)(a)1. and (a)2. together with universal waste regulated under 335-14-11 must manage the commingled waste under the requirements of 335-14-11.

(9) [Reserved]

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

History: January 12, 1996.

Amended: March 28, 1997; March 27, 1998; March 31, 2000; April 13, 2001; March 31, 2005; April 4, 2006; April 3, 2007; May 27, 2008; March 31, 2017; April 6, 2018; **Amended:** Proposed: July 21, 2020.