

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-14-6-.01
Rule Title: General

 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 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 *[Signature]*

Date: July 21, 2020

REC'D & FILED

JUL 20 2020

(DATE FILED)
(STAMP) 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:

335-14-6-.01 General (Amend)
335-14-6-.02 General Facility Standards (Amend)

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

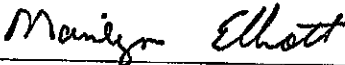
SUBSTANCE OR PROPOSED ACTION: Revise portions of Division 14 Regulations to incorporate changes to ensure consistency with State and Federal Statutes; to adopt certain State specific requirements; and to provide clarification of State requirements for the management of hazardous waste.

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. LeFleur
Director

335-14-6-.01 General.

(i) Purpose, scope, and applicability.

(a) The purpose of 335-14-6 is to establish minimum standards that define the acceptable management of hazardous waste during the effective term of interim status and until the certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(b) Except as provided in 335-14-6-.29, the standards of 335-14-6, and of 335-14-5-.19 apply to owners and operators of facilities that treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status under rule 335-14-8-.07 until either a final facility permit is issued or until applicable 335-14-6 closure and post-closure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980 who have failed to provide timely notification as required by section 3010(a) of RCRA and/or failed to file Part A of the permit application as required by rule 335-14-8-.07. These standards apply to all treatment, storage, and disposal of hazardous waste at these facilities after the effective date of 335-14-6, except as specifically provided otherwise in 335-14-6 or 335-14-2.

Generators operating landfills, waste piles, or surface impoundments or other land units without an AHWMMMA Permit or interim status may be required by the Department to comply with the requirements of 335-14-6-.06, but shall not be granted interim status unless they otherwise qualify for interim status under Division 335-14. These units shall be subject to the closure and post-closure requirements of 335-14-5, except that closure and post-closure plans for these units shall be processed according to the Administrative procedures of rule 335-14-6-.07.

(c) The requirements of 335-14-6 do not apply to:

1. [Reserved]
2. [Reserved]
3. [Reserved]
4. [Reserved]
5. The owner or operator of a facility permitted by the Department to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under 335-14-6 by 335-14-3-.01(4);
6. The owner or operator of a facility managing recyclable materials described in 335-14-2-.01(6)(a)2., 3. and 4. (except to the extent that requirements of 335-14-6 are referred to in 335-14-17 or rules 335-14-7-.03, 335-14-7-.06, 335-14-7-.07, or 335-14-7-.08);

7. A generator accumulating waste on-site in compliance with 335-14-3-.01, except as otherwise provided in rule 335-14-3;

8. A farmer disposing of waste pesticides from his own use in compliance with 335-14-3-.07(1);

9. The owner or operator of a totally enclosed treatment facility, as defined in 335-14-1-.02;

10. The owner or operator of an elementary neutralization unit or wastewater treatment unit as defined in 335-14-1-.02, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes [other than the D001 High TOC Subcategory defined in 335-14-9-.04(1), Table "Treatment Standards for Hazardous Wastes"], or reactive (D003) waste, in order to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in 335-14-6-.02(8)(b).

11. (i) Except as provided in 335-14-6-.01(1)(c)11.(ii), a person engaged in treatment or containment activities during immediate response to any of the following situations:

(I) A discharge of hazardous waste;

(II) An imminent and substantial threat of a discharge of hazardous waste;

(III) A discharge of a material which, when discharged, becomes a hazardous waste;

(IV) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in 335-14-1-.02.

(ii) An owner or operator of a facility otherwise regulated by 335-14-6 must comply with all applicable requirements of rules 335-14-6-.03 and 335-14-6-.04.

(iii) Any person who is covered by 335-14-6-.01(1)(c)11.(i) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of 335-14-6 and 335-14-8 for those activities.

(iv) In the case of an explosives or munitions emergency response, if a Federal, State of Alabama, Tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA Identification numbers and without the preparation of a

manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

12. [Reserved]

13. The addition of sorbent material to waste in a container or the addition of waste to sorbent material in a container, provided that these activities occur at the time waste is first placed in the container, and 335-14-6-.02(8) and 335-14-6-.09(2) and (3) are complied with.

14. Universal waste handlers and universal waste transporters [as defined in 335-14-1-.02] handling the wastes listed below. These handlers are subject to regulation under 335-14-11, when handling the below listed universal wastes.

(i) Batteries as Described in 335-14-11-.01(2);

(ii) Pesticides as described in 335-14-11-.01(3);

(iii) Mercury-containing equipment as described in 335-14-11-.01(4);
and

(iv) Lamps as described in 335-14-11-.01(5); and

(v) Aerosol cans as described in 335-14-11-.01(6).

15. Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in 335-14-1-.02. Reverse distributors are subject to regulation under 335-14-7-.16 in lieu of 335-14-6 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(d) The following hazardous wastes must not be managed at facilities subject to regulation under 335-14-6.

1. EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, or F027 unless:

(i) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;

(ii) The waste is stored in tanks or containers;

(iii) The waste is stored or treated in waste piles that meet the requirements of 335-14-5-.12(1)(c) as well as all other applicable requirements of rule 335-14-6-.12;

(iv) The waste is burned in incinerators that are certified pursuant to the standards and procedures in 335-14-6-.15(13); or

(v) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in 335-14-6-.16(14).

(e) The requirements of 335-14-6 apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in 335-14-9, and 335-14-9 standards are considered material conditions or requirements of 335-14-6 interim status standards.

(f) 335-14-7-.13(6) identifies when the requirements of 335-14-6-.01 apply to the storage of military munitions classified as solid waste under 335-14-7-.13(3). The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 335-14-1 through 335-14-9.

(2) [Reserved]

(3) [Reserved]

(4) Imminent hazard action.

(5) Notwithstanding any other provisions of these rules, enforcement actions may be brought pursuant to Section 7003 of RCRA.

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

History: November 19, 1980. **Amended:** Effective: April 9, 1986; **Amended:** Effective: August 24, 1989; **Amended:** Effective: December 6, 1990; **Amended:** Effective: January 25, 1992; **Amended:** Effective: January 5, 1995; **Amended:** Effective: April 28, 1995; **Amended:** Effective: January 12, 1996; **Amended:** Effective: March 27, 1998; **Amended:** Effective: April 2, 1999; **Amended:** Effective: March 31, 2000; **Amended:** Effective: April 13, 2001; **Amended:** Effective: March 15, 2002; **Amended:** Effective: April 17, 2003; **Amended:** Effective: March 31, 2005; **Amended:** Effective: April 4, 2006; **Amended:** Effective: April 3, 2007; **Amended:** Effective: March 31, 2017; **Amended:** Filed: February 28, 2020; Effective: April 13, 2020; **Amended:** Proposed: July 21, 2020.