

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-14-1-.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 Mandy Elliott

Date November 18, 2022

REC'D & FILED

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LEGISLATIVE SVC AGENCY

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE: 335-14-1-.01 General (Amend)
335-14-1-.02 Definitions and References (Amend)
335-14-1-.03 Rulemaking Petitions (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 January 24, 2023, at 2:00 pm 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: January 24, 2023

CONTACT PERSON AT AGENCY: Lynn Roper, Chief, Office of Land Services (334-271-7728)



Lance R. LeFleur
Director

335-14-1.01 General.

(1) Purpose, scope, applicability, citations, and submissions.

(a) 335-14-1 provides definitions of terms, general standards, and overview information applicable to 335-14.

(b) In 335-14-1:

1. 335-14-1-.01(2) sets forth the rules that EPA and ADEM will use in making information they receive available to the public and sets forth the requirements that generators, transporters, or owners or operators of treatment, storage or disposal facilities must follow to assert claims of business confidentiality with respect to information that is submitted to EPA and ADEM under 335-14-1 through 335-14-6 and 335-14-9.

2. 335-14-1-.01(3) establishes rules of grammatical construction for 335-14.

3. 335-14-1-.02 defines terms which are used in 335-14.

4. 335-14-1-.03 establishes procedures for petitioning ADEM and EPA to amend, modify, or revoke any provision of 335-14 and establishes procedures for governing ADEM action on such petitions.

5. 335-14-1-.03(1) establishes procedures for petitioning ADEM to approve testing methods as equivalent to those prescribed in 335-14-2, 335-14-5, or 335-14-6.

6. 335-14-1-.03(2) establishes procedures for petitioning ADEM to amend 335-14-2-.04 to exclude a waste from a particular facility.

7. 335-14-1-.03(3) establishes procedures for petitioning ADEM to include a waste in 335-14-11. [NOTE: Generators cannot petition ADEM under Rule 335-14-1-.03 and 335-14-11-.07 until the Department has received authorization from EPA for this revision of the Department's base program.]

(c) Unless specified otherwise by citation to the Code of Federal Regulations (CFR) or other authority, all citations to Divisions, Rules, paragraphs, and subparagraphs are to the Alabama Department of Environmental Management Administrative Code.

(d) Unless specified otherwise in 335-14, reports, notices, permit applications and all other submissions required by 335-14 shall be addressed to the following:

1. If such submission is to the Director,

Mail:

Director
Alabama Department of Environmental Management
P. O. Box 301463
Montgomery, AL 36130-1463

Hand Delivery:

Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2400

2. If such submission is to the Department,

Mail:

Chief, Land Division
Alabama Department of Environmental Management
P. O. Box 301463
Montgomery, AL 36130-1463

Hand Delivery:

Chief, Land Division
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2400

(e) Certain submissions required by 335-14 involve the practice of engineering and/or land surveying, as those terms are defined in Code of Alabama 1975, as amended, §§ 34-11-1 to 34-11-37; and/or the practice of geology, as that term is defined in Code of Alabama 1975, as amended, §§ 34-41-1 to 34-41-24. It is the responsibility of any person preparing or submitting such submissions to ensure compliance with these laws and any regulations promulgated thereunder, as may be required by the Alabama Board of Licensure for Professional Engineers and Land Surveyors and/or the Alabama Board of Licensure for Professional Geologists. All submissions, or parts thereof, which are required by State of Alabama law to be prepared by a licensed engineer, land surveyor, or geologist, must include the engineer's, land surveyor's, and/or geologist's signature and/or seal, as required by the applicable licensure laws.

- (2) Availability of information; confidentiality of information.

(a) Any information provided to EPA under Parts 260 through 266 and 268 of 40 CFR will be made available to the public to the extent and in the manner authorized by the Freedom of Information Act, 5 U.S.C. Section 552, Section 3007(b) of

RCRA and EPA regulations implementing the Freedom of Information Act and Section 3007(b), Part 2 of 40 CFR, as applicable. Any information provided to ADEM under 335-14-1 through 335-14-6 and 335-14-9 will be made available to the public to the extent and in the manner authorized by Rule 335-1-1-.06.

(b) Except as provided in 335-14-1-.01(2)(c) and (d), any person who submits information to EPA in accordance with 335-14-1 through 335-14-7 and 335-14-9~~Parts 260 through 266 and 268 of 40 CFR~~ may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in §2.203(b) of 40 CFR. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Part 2, Subpart B, of 40 CFR. Any person who submits information to ADEM in accordance with 335-14-1 through 335-14-7 and 335-14-9 may assert a claim of business confidentiality in accordance with Rule 335-1-1-.06.

(c)1. After August 6, 2014, no claim of business confidentiality may be asserted by any person with respect to information entered on a Hazardous Waste Manifest (EPA Form 8700-22), a Hazardous Waste Manifest Continuation Sheet (EPA Form 8700-22A), or an electronic manifest format that may be prepared and used in accordance with ~~335-15~~14-3-.02(1)(b)~~3.~~

~~(d)2.~~ EPA will make any electronic manifest that is prepared and used in accordance with 335-14-3-.02(1)(a)3., or any paper manifest that is submitted to the system under 335-14-5-.05 or 335-14-6-.05 ~~of this chapter~~ available to the public under this section when the electronic or paper manifest is a complete and final document. Electronic manifests and paper manifests submitted to the system are considered by EPA to be complete and final documents and publicly available information after 90 days have passed since the delivery to the designated facility of the hazardous waste shipment identified in the manifest.

(d)1. After June 26, 2018, no claim of business confidentiality may be asserted by any person with respect to information contained in cathode ray tube export documents prepared, used and submitted under ~~§§ 261.39(a)(5) 335-14-2-.05(1)(a)5.~~ and ~~261.41(a) of 40 CFR~~335-14-2-.05(3)(a), and with respect to information contained in hazardous waste export, import, and transit documents prepared, used and submitted under 40 CFR §§ 262.82 [incorporated by reference in 335-14-3-.09(3)], 262.83 [incorporated by reference in 335-14-3-.09(4)], 262.84 [incorporated by reference in 335-14-3-.09(5)], ~~263.20~~335-14-4-.02(1), 264.12~~335-14-5-.02(3), 264.71~~335-14-5-.05(2), 265.12~~335-14-6-.02(3), 265.71~~ and 335-14-6-.05(2), ~~and 267.71,~~ whether submitted electronically into EPA's Waste Import Export Tracking System or in paper format.

2. EPA will make any cathode ray tube export documents prepared, used and submitted under 335-14-2-.05(1)(a)5. ~~40 CFR §§ 261.39(a)(5) and 335-14-2-.05(3)(a)~~261.41(a), and any hazardous waste export, import, and transit documents prepared, used and submitted under 40 CFR §§ 262.82 [incorporated by reference in 335-14-3-.09(3)], 262.83 [incorporated by reference in 335-14-3-.09(4)], 262.84 [incorporated by reference in 335-14-3-.09(5)], 335-14-4-.02(1), 335-14-5-.02(3), 335-14-5-.05(2), 335-14-6-.02(3), and 335-14-6-.05(2)~~263.20, 264.12, 264.71, 265.12, 265.71, and 267.71 of this chapter~~ available to the public under this section when these

electronic or paper documents are considered by EPA to be final documents. These submitted electronic and paper documents related to hazardous waste exports, imports and transits and cathode ray tube exports are considered by EPA to be final documents on March 1 of the calendar year after the related cathode ray tube exports or hazardous waste exports, imports, or transits occur.

(3) Use of number and gender. As used in 335-14:

(a) Words in the masculine gender also include the feminine and neuter genders; and

(b) Words in the singular include the plural; and

(c) Words in the plural include the singular.

(4) Manifest copy submission requirements for certain interstate waste shipments.

(a) A designated facility that receives waste through a hazardous waste manifest, either because the waste is a hazardous waste as defined in 335-14-2, or, for waste generated out of state, the state in which the waste is generated requires it to be regulated as a hazardous waste, shall:

1. Complete the facility portion of the applicable manifest;
2. Sign and date the facility certification;
3. Submit to the e-Manifest system a final copy of the manifest for data processing purposes; and

4. Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of 40 CFR 264.

(5) Applicability of electronic manifest system and user fee requirements to facilities receiving state-only regulated waste shipments.

(a) [Reserved].

(b) A designated facility that receives state-only regulated waste through a hazardous waste manifest, because a state requires a hazardous waste manifest to be used under state law to track the shipment and transportation of that waste to a receiving facility, shall:

1. Comply with the provisions of 335-14-5-.05(2) (use of the manifest) and 335-14-5-.05(3) (manifest discrepancies; and

2. Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology.

payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of 40 CFR 264.

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

History: April 9, 1986. **Amended:** Effective: February 15, 1988; **Amended:** Effective: August 24, 1989; **Amended:** Effective: January 5, 1995; **Amended:** Effective: January 12, 1996; **Amended:** Effective: March 28, 1997; **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 4, 2006; **Amended:** Effective: March 26, 2013; **Amended:** Effective: April 8, 2016; **Amended:** Effective: March 31, 2017; **Amended:** Effective: April 6, 2018; **Amended:** Filed: February 19, 2019; Effective: April 5, 2019; **Amended:** Filed: December 31, 2020; Effective: February 15, 2021; **Proposed: November 18, 2022**