

APA-1
07/04

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 335 Department or Agency Environmental Management
Rule No. 335-14-11-.04
Rule Title: Standards for Universal Waste Transporters

 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 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 October 20, 2017



APA-2
11/96

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE: 335-14-11-.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)
335-14-11-.04 Standards for Universal Waste Transporters (Amend)
335-14-11-.05 Standards for Destination Facilities (Amend)
335-14-11-.06 Import Requirements (Amend)
335-14-11-.07 Petitions to Include Other Wastes under Chapter 335-14-11 (Amend)

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

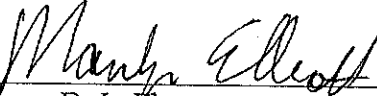
SUBSTANCE OR PROPOSED ACTION: Revise portions of Division 14 Regulations to incorporate changes to ensure consistency with State and Federal Statutes; to adopt certain State specific requirements; and to provide clarification of State requirements for the management of hazardous waste.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held December 6, 2017 at 1:30 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: December 6, 2017

CONTACT PERSON AT AGENCY: Vernon H. Crockett, Chief of the Industrial Hazardous Waste Branch, ADEM Land Division (334/270-5627)



Lance R. LeFleur
Director

335-14-11-.04 Standards for Universal Waste Transporters.

(1) Applicability. 335-14-11-.04 applies to universal waste transporters (as defined in 335-14-1-.02).

(2) Prohibitions. A universal waste transporter is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in 335-14-11-.04(5).

(3) Waste management.

(a) A universal waste transporter must comply with all applicable U.S. Department of Transportation regulations in 49 CFR Part 171 through 180 for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the Department of Transportation regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in 335-14-3. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the Department of Transportation regulations.

(b) Some universal waste materials are regulated by the Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2. As universal waste shipments do not require a manifest under 335-14-3, they may not be described by the DOT proper shipping name "hazardous waste, (l) or (s), n.o.s.", nor may the hazardous material's proper shipping name be modified by adding the word "waste".

(4) Storage time limits.

(a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.

(b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and must comply with the applicable requirements of 335-14-11-.02 or 335-14-11-.03 while storing the universal waste.

(5) Response to releases.

(a) A universal waste transporter must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A universal waste transporter must determine whether any material resulting from the release is hazardous waste, and if so, it is subject to all applicable requirements of 335-14-1 through 335-14-9. If the waste is determined to be a hazardous waste, the transporter is subject to 335-14-3.

(6) Off-site shipments.

(a) A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

(b) If the universal waste being shipped off-site meets the Department of Transportation's definition of hazardous materials under 49 CFR 171.8, the shipment must be properly described on a shipping paper in accordance with the applicable Department of Transportation regulations under 49 CFR Part 172.

(7) Exports. A universal waste transporter transporting a shipment of universal waste to a foreign destination is subject to the requirements of 335-14-3-.09 ~~other than to those OECD countries specified in 335-14-3-.05(9)(a)1. (in which case the handler is subject to the requirements of rule 335-14-3-.09) may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:~~

~~(a) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and~~

~~(b) The shipment is delivered to the facility designated by the person initiating the shipment.~~

Author: Amy P. Zachry; Michael B. Jones; Lynn T. Roper; Bradley N. Curvin; Vernon H. Crockett.

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; April 13, 2001; March 31, 2005; April 4, 2006; XXXXX, 2018.