

APA-1
07/04

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 335 Department or Agency Environmental Management
Rule No. 335-14-11-.07
Rule Title: Petitions to Include Other Wastes under Chapter 335-14-11

 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 Mary E. Hoff

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	<u>General (Amend)</u>
335-14-11-.02	<u>Standards for Small Quantity Handlers of Universal Waste (Amend)</u>
335-14-11-.03	<u>Standards for Large Quantity Handlers of Universal Waste (Amend)</u>
335-14-11-.04	<u>Standards for Universal Waste Transporters (Amend)</u>
335-14-11-.05	<u>Standards for Destination Facilities (Amend)</u>
335-14-11-.06	<u>Import Requirements (Amend)</u>
335-14-11-.07	<u>Petitions to Include Other Wastes under Chapter 335-14-11 (Amend)</u>

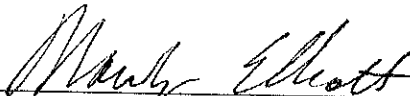
INTENDED ACTION: Revise Division 14 of the ADEM Administrative Code.

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-.07 Petitions to Include Other Wastes Under Chapter
335-14-11.

(1) General.

(a) Any person seeking to add a hazardous waste or a category of hazardous waste to 335-14-11 may petition for a regulatory amendment under 335-14-11-.07 and 335-14-1-.03(3).

(b) To be successful, the petitioner must demonstrate to the satisfaction of the Director that regulation under the universal waste regulations of 335-14-11 is: appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition must include the information required by 335-14-1-.03(3)(b). The petition should also address as many of the factors listed in 335-14-11-.07(2) as are appropriate for the waste or waste category addressed in the petition.

(c) The Director will evaluate petitions using the factors listed in 335-14-11-.07(2). The Director will grant or deny a petition using the factors listed in 335-14-11-.07(2). The decision will be based on the weight of evidence showing that regulation under Chapter 335-14-11 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

(2) Factors for petitions to include other wastes under Chapter
335-14-11.

(a) The waste or category of waste, as generated by a wide variety of generators, is listed in rule 335-14-2-.04, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in rule 335-14-2-.03. [When a characteristic waste is added to the universal waste regulations of Chapter 335-14-11 by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in rule 335-14-1-.02 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries).] Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of Chapter 335-14-11;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, ~~conditionally-exempt~~ every small quantity generators, small businesses, government organizations, as well as large industrial facilities);

(c) The waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

(d) Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

(e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to rules 335-14-11-.02(4), 335-14-11-.03(4), and 335-14-11-.04(3); and/or applicable Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;

(f) Regulation of the waste or category of waste under Chapter 335-14-11 will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer or stormwater systems) to recycling, treatment, or disposal in compliance with Subtitle C of RCRA.

(g) Regulation of the waste or category of waste under Chapter 335-14-11 will improve implementation of and compliance with the hazardous waste regulatory program; and/or

(h) Such other factors as may be appropriate.

Author: Amy P. Zachry; 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; April 13, 2001; March 31, 2005; April 4, 2006; XXXXX, 2018.