

07/04

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management
Rule No. 335-14-3-.02
Rule Title: Manifest Requirements Applicable to Small and Large Quantity Generators.

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

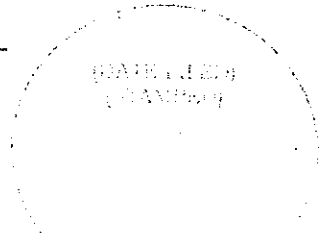
If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

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 [Handwritten Signature]

Date October 20, 2017



APA-2
11/96

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

| | | |
|------------------------------|--------------|--|
| <u>RULE NO. & TITLE:</u> | 335-14-3-.01 | <u>General</u> (Amend) |
| | 335-14-3-.02 | <u>Manifest Requirements Applicable to Small and Large Quantity Generators.</u> (Amend) |
| | 335-14-3-.03 | <u>Pre-Transport Requirements Applicable to Small and Large Quantity Generators.</u> (Amend) |
| | 335-14-3-.04 | <u>Recordkeeping and Reporting Applicable to Small and Large Generators.</u> (Amend) |
| | 335-14-3-.05 | [Reserved] (Amend) |
| | 335-14-3-.06 | [Reserved] (Amend) |
| | 335-14-3-.07 | <u>Farmers</u> (Amend) |
| | 335-14-3-.08 | <u>Special Requirements for Generators of Waste Destined for Disposal at Commercial Hazardous Waste Disposal Facilities Located in the State of Alabama</u> (Amend) |
| | 335-14-3-.09 | <u>Transboundary Movements of Hazardous Waste for Recovery or Disposal</u> (Amend) |
| | 335-14-3-.12 | <u>Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities</u> (Amend) |
| | 335-14-3-.13 | <u>Alternative Standards for Episodic Generation</u> (Amend) |
| | 334-14-3-.14 | <u>Preparedness, Prevention, Emergency Procedures for Large Quantity Generators</u> (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.

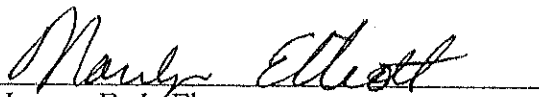
TIME, PLACE, MANNER OF PRESENTING VIEWS:

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)

A handwritten signature in cursive script, appearing to read "Lance R. LeFleur", is written over a horizontal line.

Lance R. LeFleur
Director

335-14-3-.02 The Manifest Requirements Applicable to Small and Large Quantity Generators.

(1) General requirements.

(a) General.

1. A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transportation a rejected hazardous waste load, must prepare a Manifest (OMB control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, according to the instructions in 335-14-3-Appendix I.

2. [Reserved].

3. ~~(b)~~ Electronic manifest. In lieu of using the manifest form specified in 335-14-3-.02(1)(a), a person required to prepare a manifest may prepare and use an electronic manifest, provided that the person:

(i) Complies with the requirements of 335-14-3-.02(5).

(ii) Complies with the requirements of 40 CFR § 3.10 for the reporting of electronic documents to EPA.

~~(b)~~ (be) A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest.

~~(c)~~ (ce) A generator may also designate on the manifest one alternate facility which is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.

~~(d)~~ (de) If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste to the generator.

~~(e)~~ (ef) The requirements of 335-14-3-.02 do not apply to small quantity generators where:

1. The waste is reclaimed under a contractual agreement pursuant to which:

(i) The type of waste and frequency of shipments are specified in the agreement;

(ii) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and

2. The generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.

(fg) The requirements of 335-14-3-.02 and 335-14-3-.03(3)(b) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding 335-14-4-.01(1)(a), the generator or transporter must comply with the requirements for transporters set forth in 335-14-4-.03(1) and (2) in the event of a discharge of hazardous waste on a public or private right-of-way.

(2) Manifest tracking numbers, manifest printing, and obtaining manifests.

(a) General.

1. A registrant may not print, or have printed the manifest for use or distribution unless it has received approval from the EPA Director of the Office of Resource Conservation and Recovery to do so under 40 CFR 262.21(c) and 262.21(e).

2. The approved registrant is responsible for ensuring that the organizations identified in its application are in compliance with the procedures of its approved application and the requirements of this section. The registrant is responsible for assigning manifest tracking numbers to its manifests.

_____ (b) [Reserved].

_____ (c) [Reserved].

_____ (d) [Reserved].

_____ (e) [Reserved].

_____ (f) [Reserved].

(gb) A generator may use manifests printed by any source so long as the source of the printed form has received approval from the EPA to print the manifest under 40 CFR 262.21(c) and 262.21(e).

1. A registered source may be a:

(i) State agency;

(ii) Commercial printer;

(iii) Hazardous waste generator, transporter or TSDf; or

(iv) Hazardous waste broker or other preparer who prepares or arranges shipments of hazardous waste for transportation.

2. A generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under the states' authorized programs. Generators also must determine whether the consignment state or generator state

requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.

(3) Number of copies. The manifest shall consist of at least the number of copies which will provide the Department (if required), the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and another copy to be returned to the generator.

(4) Use of the manifest.

(a) The generator must:

1. Sign the manifest certification by hand; and
2. Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and
3. Retain one copy of the manifest, in accordance with 335-14-3-.04(1)(a).

(b) The generator must give the transporter the remaining copies of the manifest.

(c) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with 335-14-3-.02(4) to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(d) For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with 335-14-3-.02(4) to:

1. The next non-rail transporter, if any; or
2. The designated facility if transported solely by rail; or
3. The last rail transporter to handle the waste in the United States if exported by rail.

(e) For shipments of hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

(f) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated

facility [following the procedures of 335-14-5-.05(3)(f) or 335-14-6-.05(3)(f)], the generator must:

1. Sign either:
 - (i) Item 20 of the new manifest if a new manifest is used for the returned shipment; or
 - (ii) Item 18c of the original manifest if the original manifest is used for the returned shipment;
2. Provide the transporter a copy of the manifest;
3. Within thirty (30) days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and
4. Retain at the generator's site a copy of each manifest for at least three (3) years from the date of delivery.

(5) Use of the electronic manifest.

(a) Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with 335-14-3-.02(1)(b) and 335-14-3-.02(5), in lieu of EPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

~~(i) Electronic manifests that are obtained, completed, and transmitted in accordance with 335-14-3-.02(1)(b) and 335-14-3-.02(5), in lieu of EPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.~~

1.(ii) Any requirement to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 40 CFR § 262.25(a).

2.(iii) Any requirement to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the e-Manifest system.

3.(iv) Any requirement for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-Manifest system, provided that such copies are readily available for viewing and production if requested by the Department.

4.(v) No generator may be held liable for the inability to produce an electronic manifest for inspection under this section if the generator can demonstrate that the

inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.

(b) A generator may participate in the electronic manifest system either by accessing the electronic manifest system from its own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for offsite transportation.

(c) Restriction on use of electronic manifests. A generator may prepare an electronic manifest for the tracking of hazardous waste shipments involving any hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the electronic manifest system.

(d) Requirement for one printed copy. To the extent a paper document is required for compliance with 49 CFR § 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest.

(e) Special procedures when electronic manifest is unavailable. If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator must obtain and complete a paper manifest (EPA Forms 8700-22 and 8700-22A, if necessary) according to the instructions in 335-14-3-Appendix I, and use these paper forms from this point forward in accordance with 335-14-3-.02(4).

(f) Special procedures for electronic signature methods undergoing tests. If a generator has prepared an electronic manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the generator shall also sign with an ink signature the generator/offeror certification on the printed copy of the manifest provided under 335-14-3-.02(5)(d).

~~(g)~~ [Reserved].

(6) [Reserved].

~~(7)~~ ~~[Reserved].~~

(78) Waste minimization certification. A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest:

(a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment,

storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment."; or

(b) "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

Authors: Stephen C. Maurer; Michael B. Champion; C. Edwin Johnston; Bradley N. Curvin; Theresa A. Maines; Heather M. Jones; Metz Duites; Vernon H. Crockett.

Statutory Authority: Code of Alabama 1975, §§22-30-11, 22-30-14, 22-30-17.

History: November 19, 1980.

Amended: April 9, 1986; September 29, 1986; August 24, 1989; December 6, 1990; March 27, 1998; April 13, 2001; March 15, 2002; March 31, 2005; April 4, 2006; April 3, 2007; March 30, 2010; March 31, 2011; March 31 2017, XXXX, 2018.