

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-14-2-.13
Rule Title: Emergency Preparedness and Response for Management
Of Excluded Hazardous Secondary Materials

 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

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? NO

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 Marilyn Elliott

Date October 19, 2018

(DATE FILED)
(STAMP)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION
NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Environmental Management

RULE NO. & TITLE: 335-14-1-.01 General
335-14-1-.02 Definitions and References
335-14-1-.03 Rulemaking Petitions
335-14-2-.01 General
335-14-2-.05 Exclusions/Exemptions
335-14-2-.08 Financial Requirements for Management of Excluded Hazardous
Secondary Materials
335-14-2-.13 Emergency Preparedness and Response for Management of
Excluded Hazardous Secondary Materials
335-14-3-.01 General
335-14-3-.02 Manifest Requirements Applicable to Small and Large Quantity
Generators
335-14-3-.09 Transboundary Movements of Hazardous Waste for Recovery or
Disposal
335-14-3 Appendix I Uniform Hazardous Waste Manifest and Instructions
(EPA Forms 8700 22 and 8700 22A and their Instructions)
335-14-4-.02 Compliance with the Manifest System and Recordkeeping
335-14-5-.05 Manifest System, Recordkeeping and Reporting
335-14-5-.29 Subpart CC Air Emission Standards For Tanks, Surface
Impoundments, And Containers
335-14-6-.05 Manifest System, Recordkeeping and Reporting
335-14-6-.29 Subpart CC Air Emission Standards For Tanks, Surface
Impoundments, And Containers
335-14-17-.05 Standards for Used Oil Transporter and Transfer Facilities
335-14-17-.06 Standard for Used Oil processors and Re-refiners

INTENDED ACTION: Revise

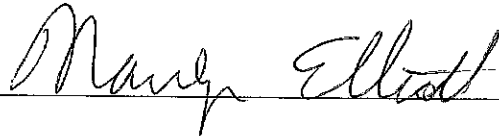
SUBSTANCE OF PROPOSED ACTION: Revisions to the ADEM Admin. Code r. 335-14 are being proposed to adopt three newly codified and revised federal rules promulgated by EPA. The first of these is the Confidentiality Determinations for Hazardous Waste Export and Import Documents Rule, 82 FR 60894, (hereinafter "the Confidentiality Rule") finalized on December 26, 2017. This rule amends existing regulations regarding the export and import of hazardous wastes from and into the United States. The second is the Hazardous Waste Electronic Manifest System User Fee Rule, 83 FR 420 (hereinafter "the e-Manifest fee rule") promulgated on January 3, 2018 and is the second in a series of new rules that implement the national electronic manifest system. Finally, the third rule is the Revisions to the Definition of Solid Waste, Response to Vacatur of Certain

Provisions of the Definition of Solid Waste Rule, 83 FR 24664, (hereinafter "the Vacatur Rule") promulgated on May 30, 2018 in response to vacatur orders by the United States Court of Appeals for the District of Columbia Circuit. These revisions are necessary for the Department to maintain regulations that are at least as stringent as those promulgated federally, a requirement to preserve the State's authorized status.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Comments may be submitted in writing or orally at a public hearing to be held December 7, 2018 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: December 7, 2018

CONTACT PERSON AT AGENCY: Vernon H. ("Chip") Crockett, Chief
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Lance R. LeFleur
Director

335-14-2-.13 Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials

(1) Applicability. The requirements of this subpart apply to those areas of an entity managing hazardous secondary materials excluded under 335-14-2-.01(4)(a)23. and/or 335-14-2-.01(4)(a)24. where hazardous secondary materials are generated or accumulated on site.

(a) A generator of hazardous secondary material, or an intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d), that accumulates 6000 kg or less of hazardous secondary material at any time must comply with 335-14-2-.13(11) and 335-14-2-.13(12).

(b) A generator of hazardous secondary material, or an intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) that accumulates more than 6000 kg of hazardous secondary material at any time must comply with 335-14-2-.13(11) and 335-14-2-.13(21).

(2) through (10) [**Reserved**].

(11) Preparedness and prevention

(a) Maintenance and operation of facility. Facilities generating or accumulating hazardous secondary material must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous secondary materials or hazardous secondary material constituents to air, soil, or surface water which could threaten human health or the environment.

(b) Required equipment. All facilities generating or accumulating hazardous secondary material must be equipped with the following, *unless* none of the hazards posed by hazardous secondary material handled at the facility could require a particular kind of equipment specified below:

1. An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

2. A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

3. Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

4. Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

(c) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and

decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(d) Access to communications or alarm system.

1. Whenever hazardous secondary material is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under 335-14-2-.13(11)(b) ~~paragraph (b) of this section.~~

2. If there is ever just one employee on the premises while the facility is operating, he must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under 335-14-2-.13(11)(b) ~~paragraph (b) of this section.~~

(e) Required aisle space. The hazardous secondary material generator or intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(f) Arrangements with local authorities.

1. The hazardous secondary material generator or an intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations:

(i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous secondary material handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(ii) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(iii) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and

(iv) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

2. Where state or local authorities decline to enter into such arrangements, the hazardous secondary material generator or an intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) must document the refusal in the operating record.

(12) Emergency procedures for facilities generating or accumulating 6000 kg or less of hazardous secondary material. A generator or an intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) that generates or accumulates 6000 kg or less of hazardous secondary material must comply with the following requirements:

(a) At all times there must be at least one employee either on the premises or on call (*i.e.*, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (d) of this section. This employee is the emergency coordinator.

(b) The generator or intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) must post the following information next to the telephone:

1. The name and telephone number of the emergency coordinator;
2. Location of fire extinguishers and spill control material, and, if present, fire alarm; and
3. The telephone number of the fire department, unless the facility has a direct alarm.

(c) The generator or an intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(d) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

1. In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

2. In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil;

3. In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator or an intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) has knowledge that a spill has reached surface water, the generator or an intermediate or reclamation facility operating under a verified recycler variance under

335-14-1-.03(11)(d) must immediately notify the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include the following information:

- (i) The name, address, and U.S. EPA Identification Number of the facility;
- (ii) Date, time, and type of incident (e.g., spill or fire);
- (iii) Quantity and type of hazardous waste involved in the incident;
- (iv) Extent of injuries, if any; and
- (v) Estimated quantity and disposition of recovered materials, if any.

(13) through (20) **[Reserved]**.

(21) Contingency planning and emergency procedures for facilities generating or accumulating more than 6000 kg of hazardous secondary material.

A generator or an intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) that generates or accumulates more than 6000 kg of hazardous secondary material must comply with the following requirements:

(a) Purpose and implementation of contingency plan.

1. Each generator or an intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) that accumulates more than 6000 kg of hazardous secondary material must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water.

2. The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous secondary material or hazardous secondary material constituents which could threaten human health or the environment.

(b) Content of contingency plan.

1. The contingency plan must describe the actions facility personnel must take to comply with paragraphs (a) and (f) in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water at the facility.

2. If the generator or an intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) accumulating more than 6000 kg of hazardous secondary material has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR Part 112, or

some other emergency or contingency plan, he need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this part. The hazardous secondary material generator or an intermediate or reclamation facility operating under a verified recycler variance under 335-14-1-.03(11)(d) may develop one contingency plan which meets all regulatory requirements. EPA recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan"). When modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.

3. The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to 335-14-2-.13(11)(f).

4. The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see paragraph (e) of this section), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

5. The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

6. The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

(c) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan must be:

1. Maintained at the facility; and

2. Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

(d) Amendment of contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever:

1. Applicable regulations are revised;

2. The plan fails in an emergency;

3. The facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of hazardous secondary material or hazardous secondary material constituents, or changes the response necessary in an emergency;

4. The list of emergency coordinators changes; or

5. The list of emergency equipment changes.

(e) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan. The emergency coordinator's responsibilities are more fully spelled out in paragraph (f). Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of hazardous secondary material(s) handled by the facility, and type and complexity of the facility.

(f) Emergency procedures.

1. Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate State or local agencies with designated response roles if their help is needed.

2. Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. He may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.

3. Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

4. If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, he must report his findings as follows:

(i) If his assessment indicates that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) He must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:

- (I) Name and telephone number of reporter;
- (II) Name and address of facility;
- (III) Time and type of incident (e.g., release, fire);
- (IV) Name and quantity of material(s) involved, to the extent known;
- (V) The extent of injuries, if any; and
- (VI) The possible hazards to human health, or the environment, outside the facility.

5. During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous secondary material at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released material, and removing or isolating containers.

6. If the facility stops operations in response to a fire, explosion or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

7. Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered secondary material, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the hazardous secondary material generator can demonstrate, in accordance with 335-14-2-.01(3)(c) or (d) of this chapter, that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of 335-14-3, 335-14-4, and 335-14-6.

8. The emergency coordinator must ensure that, in the affected area(s) of the facility:

(i) No secondary material that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

9. The hazardous secondary material generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to the Department. The report must include:

(i) Name, address, and telephone number of the hazardous secondary material generator;

(ii) Name, address, and telephone number of the facility;

(iii) Date, time, and type of incident (e.g., fire, explosion);

(iv) Name and quantity of material(s) involved;

(v) The extent of injuries, if any;

(vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(vii) Estimated quantity and disposition of recovered material that resulted from the incident.

(g) Personnel training. All employees must be thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

Author: Bradley N. Curvin; Vernon H. Crockett

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

History: April 8, 2016.

Amended: April 6, 2018; Proposed: October 19, 2018.