ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION - HAZARDOUS WASTE PROGRAM
ADMINISTRATIVE CODE

CHAPTER 335-14-1
HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

TABLE OF CONTENTS

335-14-1-.01 General
335-14-1-.02 Definitions And References
335-14-1-.03 Rulemaking Petitions

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 Division 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 Division 335-14.

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

4. 335-14-1-.03 establishes procedures for petitioning ADEM and EPA to amend, modify, or revoke any provision of Division 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 Rules 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 Division 335-14, reports, notices, permit applications and all other submissions required by Division 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 Division 335-14 involve the practice of engineering and/or land surveying, as those

terms are defined in Code of Ala. 1975, as amended, §§34-11-1 to 34-11-37; and/or the practice of geology, as that term is defined in Code of Ala. 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 the ADEM Administrative Code 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 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 the ADEM Administrative Code 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 335-14-3-.02(1)(a)3.

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 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 335-14-2-.05(1)(a)5. and 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)], 335-14-4-.02(1), 335-14-5-.02(3), 335-14-5-.05(2), 335-14-6-.2(3), and 335-14-6-.05(2), whether submitted electronically into EPA's Waste Import Export Tracking System or in paper format. After January 22, 2025, no claim of business confidentiality may be asserted by any person with respect to information contained in hazardous secondary material export documents prepared, used and submitted under 40 CFR § 261.4(a)(25)[incorporated by reference at 335-14-1-.01(4)(a)25.], whether submitted electronically into the 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. and 335-14-2-.05(3)(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--5-.05(2), 335-14-6-.02(3), and 335-14-6-5(2) 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. After January 22, 2025, the EPA will make available to the public under this section any hazardous secondary material export documents prepared, used and submitted under 40 CFR § 261.4(a)(25)[incorporated by reference at 335-14-1-.01(4)(a)25.] on March 1 of the calendar year

after the related hazardous secondary material exports occur, when these documents are considered by the EPA to be final documents.

(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.

Author: Stephen C. Maurer, Michael B. Jones, Amy P. Zachry, Stephen A. Cobb, Vernon H. Crockett, C. Edwin Johnston, Heather M. Jones; Jonah L. Harris.
Statutory Authority: Code of Ala. 1975, §22-30-11.
History: April 9, 1986. **Amended**: February 15, 1988; August 24, 1989. **Amended**: Filed November 30, 1994; effective January 5, 1995. **Amended**: Filed December 8, 1995; effective January 12, 1996. **Amended**: Filed February 21, 1997; effective March 28, 1997. **Amended**: Filed February 20, 1998; effective March 27, 1998. **Amended**: Filed February 26, 1999; effective April 2, 1999. **Amended**: Filed February 25, 2000, effective March 31, 2000. **Amended**: Filed March 9, 2001; effective April 13, 2001. **Amended**: Filed February 8, 2002; effective March 15, 2002. **Amended**: Filed February 28, 2006; effective April 4, 2006. **Amended**: Filed February 19, 2013; effective March 26, 2013. **Amended**: Filed February 14, 2017; effective March 31, 2017. **Amended**: Filed February 20, 2018; effective April 7, 2018. **Amended**: Filed

February 19, 2019; effective April 6, 2019. **Amended:** Published April 28, 2023; effective June 12, 2023 **Amended:** Published December 31, 2025; effective February 14, 2026.

335-14-1-.02 Definitions And References.

(1) Definitions.

(a) For the purpose of these rules, the following words and phrases shall have the meanings given to them in this rule and as given by law unless the context of ADEM Administrative Code 335-14 indicates differently.

1. "Aboveground tank" means a device meeting the definition of "tank" in 335-14-1-.02 and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

2. "Aboveground used oil tank" means a tank used to store or process used oil that is not an underground storage tank as defined in rule 335-6-15-.02.

3. "Accumulated speculatively" or "Speculative accumulation" means a material that is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that – during the calendar year (commencing on January 1) – the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. Materials must be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under 335-14-2-.01(4)(c) are not to be included in making the calculation. Materials that are already defined as solid wastes also are not to be included in making the calculation. Materials are no

longer in this category once they are removed from accumulation for recycling, however.

(i) A material is not accumulated speculatively, however, if the person accumulating it can show that:

(I) the material is managed in lined waste pile(s) which meet(s) the requirements of 335-14-5-.12 or tank(s) or container(s) as those terms are defined in 335-14;

(II) the material is potentially recyclable and has a feasible means of being recycled; and

(III) that, during the calendar year (commencing on January 1), the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. [In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under 335-14-2-.01(4)(c) are not included in making the calculation. Materials that are already defined as solid wastes also are not to be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling, however.]

(ii) Notwithstanding the preceding requirements, pulping liquors (i.e., black liquor) subject to the exclusion provided by 335-14-2-.01(4)(a)6. are not required to be managed in lined waste pile(s) which meet(s) the requirements of 335-14-5-.12 or tank(s) or container(s) as those terms are defined in 335-14.

4. "Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Department receives certification of final closure.

5. "Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after November 19, 1980 and which is not a closed portion. (See also "closed portion" and "inactive portion".)

6. "Active range" for the purposes of 335-14-7-.13 means a military range that is currently in service and is being regularly used for range activities.

7. “Acute hazardous waste” means hazardous wastes that meet the listing criteria in 335-14-2-.02(2)(a)2. and therefore are either listed in 335-14-2-.04(2) with the assigned hazard code (H) or are listed in 335-14-2-.04(4)(e).

8. "ADEM" means the Alabama Department of Environmental Management as established by Code of Ala. 1975, §22-22A-4.

9. "Adequate notification" for the purposes of 335-14-3-.08 means one meeting the requirements of 335-14-3-.08(5)(a) for each waste stream. An adequate notification shall be made for each individual waste stream from each generator.

10. "Administrator" means the Administrator of EPA or his designee.

11. “Aerosol can” means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

12. "Agreement State" for the purposes of 335-14-7-.14 means a State that has entered into an agreement with the NRC under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.

13. "AHWMMA" means the Alabama Hazardous Wastes Management and Minimization Act of 1978, as amended, Code of Ala. 1975, §§22-30-1, et seq.

14. “Airbag waste” means any hazardous waste airbag modules or hazardous waste airbag inflators.

15. “Airbag waste collection facility” means any facility that receives airbag waste from airbag handlers subject to regulation under 335-14-2-.01(4)(j), and accumulates the waste for more than ten days.

16. “Airbag waste handler” means any person, by site, who generates airbag waste that is subject to regulation under 335-14.

17. "Ampule" means an airtight vial made of glass, plastic, metal, or any combination of these materials.

18. "Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

19. "Annual" means a calendar year.

20. "Annually" means once during each calendar year.

21. "Application" for the purposes of 335-14-8 means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications by the Department. Application also includes the information required by the Department in 335-14-8-.02(5) through (19) (contents of Part B of the application).

22. "Aquifer" means a geologic formation, group of formations or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

23. “Area of concern (AOC)” includes any area having a probable release of hazardous waste or hazardous constituent which is not from a solid waste management unit and is determined by the Department to pose a current or potential threat to human health or the environment. Such areas of concern may require investigations and remedial action as required under Section 3005(c)(3) of the Resource Conservation and Recovery Act and ADEM Admin. Code rule 335-14-8-.03(3)(b)2. in order to ensure adequate protection of human health and the environment.

24. "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent, or person of equivalent responsibility.

25. "Battery" means a device consisting of one or more electrically connected electrochemical cells which are designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term

battery also includes an intact, unbroken battery from which the electrolyte has been removed.

26. "Battery breaking" for the purposes of 335-14-7 means the decapitation, cutting, or otherwise liberating the contents of a lead-acid battery. This activity includes the separation of any component of the battery from the other components (e.g., drainage of acid from a spent lead-acid battery or removal of plates and groups from a spent lead-acid battery).

27. "Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

(i)(I) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(II) The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

(III) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(IV) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air and the driving of induced or forced draft fans or feedwater pumps); or

(V) The unit is one which the Department has determined, on a case-by-case basis, to be a boiler, after consideration of the standards in 335-14-1-.03(12).

28. "Broker" for the purposes of 335-14-3-.08 means a person who acts as an agent for a generator in return for a fee or commission.

29. "Bulked waste stream" for the purposes of 335-14-3-.08 means one in which multiple waste streams have been physically mixed together into an individual container or containers.

30. "By-product" for the purposes of 335-14-2-.01 is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

31. "CAMU-eligible waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris, that are managed for implementing cleanup, pursuant to the requirements of 335-14-5-.19(1), (2), and (3).

32. "Captive insurance" as used in 335-14-5-.08 and 335-14-6-.08 means insurance provided by a company meeting any of the following conditions:

(i) Shares a common pool of assets as its parent corporation,

(ii) Belongs to the same economic family as its parent corporation,

(iii) Is wholly owned and/or capitalized with funds provided exclusively by the parent company, or

(iv) Is a wholly owned insurance interest operated and managed within the corporate family of the owner or operator for the primary purpose of insuring risks from within the same corporate family.

33. "Carbon dioxide stream" means carbon dioxide that has been captured from an emission source (e.g., power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

34. "Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

35. "Cathode ray tube" or CRT means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A used, intact CRT means a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released.

36. “Central accumulation area” means any on-site hazardous waste accumulation area subject to either 335-14-3-.01(7) for large quantity generators; or 335-14-3-.01(6) for small quantity generators. A central accumulation area at an eligible academic entity that chooses to be subject to 335-14-3-.12 must also comply with 335-14-3-.12(12) when accumulating unwanted material and/or hazardous waste.

37. "Certification" or "Recertification" means:

(i) A statement of professional opinion based upon knowledge and belief.

(ii) For the purposes of 335-14-3-.08 and Appendices thereto is a statement based upon knowledge and belief of the accuracy of the information required by 335-14-3-.08.

38. "Certified delivery" for the purposes of 335-14-7-.14 means certified mail with return receipt requested, or equivalent courier service, or other means, that provides the sender with a receipt confirming delivery.

39. "Chemical agents and munitions" for the purposes of 335-14-7-.13 are as defined in 50 U.S.C. section 1521(j)(1).

40. “Closed container” means a container with a lid that is secured in a manner such that the waste will not leak if the container is tipped over.

41. "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion".)

42. "Closure" for the purposes of 335-14-8 means the act of securing a facility pursuant to the requirements of Chapter 335-14-5.

43. "Closure plan" as used in 335-14-5-.08 and 335-14-6-.08 means the plan for closure prepared in accordance with the requirements of 335-14-5-.07(3) or 335-14-6-.07(3).

44. "College/University" for the purpose of 335-14-3-.12 means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of Education.

45. "Commercial hazardous waste disposal facility" is one receiving hazardous waste not generated on site for disposal and to which a fee is paid or other compensation is given for disposal.

46. "Commission" means the Alabama Environmental Management Commission as established by Code of Ala. 1975, § 2-22A-6.

47. "Component" means:

(i) Either the tank or ancillary equipment of a tank system.

(ii) For the purposes of 335-14-7 means any of the various materials and parts of a spent lead-acid battery, including but not limited to, plates and groups, rubber and plastic battery chips, acid, and paper/cellulose material.

(iii) For the purposes of 335-14-8 means any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function (e.g., a pump seal, pump, kiln liner, kiln thermocouple).

48. "Condition for exemption" means any requirement in 335-14-3 that states an event, action, or standard that must occur or be met in order to obtain an exemption from any applicable requirement in 335-14 or from any requirement for notification under section 3010 of RCRA for treatment storage, and disposal facilities.

49. "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

50. "Consolidated waste stream" for the purposes of 335-14-3-.08 means one in which multiple waste streams are grouped together in individual containers for shipping purposes, but are not physically mixed together.

51. “Contained” means held in a unit (including a land-based unit as defined in 335-14-1-.02(1)(a)) that meets the following criteria:

(i) The unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures;

(ii) The unit is properly labeled or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit; and

(iii) The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.

(iv) Hazardous secondary materials in units that meet the applicable requirements of 335-14-5 and 335-14-6 are presumptively contained.

52. "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

53. "Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of rules 335-14-5-.30 or 335-14-6-.30.

54. "Contamination" means the presence of any hazardous constituent in a concentration that exceeds the naturally occurring concentration of that constituent.

55. "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous wastes or hazardous waste constituents which could threaten human health or the environment.

56. "Corrective action cost estimate" for the purposes of 335-14-5-.08 means the most recent of the estimates prepared in accordance with 335-14-5-.08(10).

57. "Corrective action management unit (CAMU)" means an area within a facility that is used only for implementing corrective action or cleanup at the facility, pursuant to the requirements of 335-14-5-.19(1), (2), and (3).

[**Note:** All regulated units included in a CAMU remain subject to all applicable requirements, including but not limited to, the requirements of rules 335-14-5-.06, 335-14-5-.07 and 335-14-5-.08, Chapter 335-14-8, and the unit specific requirements of 335-14-5 and 335-14-6 that applied to the units prior to their incorporation into the CAMU. See 335-14-5-.19(1)(b).]

58. "Corrective action plan" for the purposes of 335-14-5-.08 means the plan(s) which describes the corrective actions to be performed in accordance with the requirements of 335-14-5-.06(11) and (12).

59. "Corrosion expert" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

60. "CRT collector" means a person who receives used, intact CRTs for recycling, repair, resale, or donation.

61. “CRT Exporter” means any person in the United States who initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for such export.

62. "CRT glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture CRT glass.

63. "CRT processing" means conducting all of the following activities:

(i) Receiving broken or intact CRTs; and

(ii) Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

(iii) Sorting or otherwise managing glass removed from CRT monitors.

64. "Current closure cost estimate" as used in 335-14-5-.08 and 335-14-6-.08 means the most recent of the estimates prepared in accordance with 335-14-5-.08(3)(a), (3)(b), and (3)(c) or 335-14-6-.08(3)(a), (3)(b), and (3)(c).

65. "Current post-closure cost estimate" as used in 335-14-5-.08 and 335-14-6-.08 means the most recent of the estimates prepared in accordance with 335-14-5-.08(5)(a), (5)(b), and (5)(c) or 335-14-6-.08(5)(a), (5)(b), and (5)(c).

66. "CWA" or "Clean Water Act" for the purposes of 335-14-8 means the act formerly referred to as the Federal Water Pollution Control Act and the amendments to that act.

67. "Daily" means once during each day of the year.

68. "Day" means a day of the year.

69. "Department" means the Alabama Department of Environmental Management as established by Code of Ala. 1975, §22-22A-4.

70. "Designated facility" means:

(i) a hazardous waste treatment, storage, or disposal facility which:

(I) has received a permit (or interim status) in accordance with the requirements of 40 CFR, Parts 270 and 124,

(II) has received a permit (or interim status) from a state authorized in accordance with 40 CFR Part 271;

(III) is regulated under 335-14-2-.01(6)(c)2. or 335-14-7-.06, and

(IV) that has been designated on the manifest by the generator pursuant to 335-14-3-.02(1).

71. "Designated facility" also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the

waste in accordance with 335-14-5-.05(3)(f) or 335-14-6-.05(3)(f).

(i) If a waste is destined to a facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving State to accept such waste.

72. "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in 335-14-11-.02(4)(a) and (c) and 335-14-11-.03(4)(a) and (c). A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

73. "Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

74. "Dioxins and furans (D/F)" means tetra, penta, hexa, hepta, and octachlorinated dibenzo dioxins and furans.

75. "Director" means the Director of the Department, appointed pursuant to Code of Ala. 1975, §22-22A-4, or his designee.

76. "Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

77. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters including groundwaters.

78. "Disposal facility" means a disposal site. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed but does include all hazardous waste management units within a corrective action management unit.

79. "Disposal site" means the location where any ultimate disposal of hazardous waste occurs.

80. "Do-it-yourselfer used oil collection center" means any site or facility that accepts/aggregates and stores used oil collected only from household do-it-yourselfers.

81. “Domestic sewage” means untreated sanitary wastes that pass through a sewer system.

82. "Draft permit" for the purposes of 335-14-8 means a document prepared under 335-14-8-.08(4) indicating the Department's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit and a notice of intent to deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination is not a draft permit. [See 335-14-8-.08(4).] A proposed permit is not a draft permit.

83. "Drip pad" is an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

84. “Electronic manifest” or “e-Manifest” means the electronic format of the hazardous waste manifest that is obtained from EPA’s national e-Manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

85. “Electronic manifest system” or “e-Manifest system” means EPA’s national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

86. "Elementary neutralization unit" means a device which:

(i) Is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in 335-14-2-.03(3), or they are listed in 335-14-2-.04 only for this reason; and

(ii) Meets the definition of a tank, tank system, container, transport vehicle, or vessel in this paragraph.

87. “Eligible academic entity” for the purposes of 335-14-3-.12 means a college or university, or a non-profit research institute that is owned by or has a

formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

88. "Eligible Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)" for the purposes of 335-14-7-.14 is NARM that is eligible for the Transportation and Disposal Conditional Exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by State of Alabama NARM regulations to be disposed of at a low-1evel radioactive waste disposal facility (LLRWDF) licensed in accordance with 10 CFR Part 61 or NRC Agreement State equivalent regulations.

89. "Emergency permit" for the purposes of 335-14-8 means a permit issued in accordance with 335-14-8-.06(1).

90. "Engineer" means a person registered as a licensed professional engineer with the Alabama Board of Licensure for Professional Engineers and Land Surveyors and practicing under the Rules of Professional Conduct, specifically Canon II.

91. "EPA" means the United States Environmental Protection Agency.

92. "EPA hazardous waste number" means the number assigned by EPA and the Department to each hazardous waste listed in 335-14-2-.04 and to each characteristic identified in 335-14-2-.03.

93. "EPA identification number" means the number assigned by EPA or the Department to each generator, transporter, and treatment, storage or disposal facility.

94. “Episodic event” means an activity or activities, either planned or unplanned, that does not normally occur during generator operations, resulting in an increase in the generation of hazardous wastes that exceeds the calendar month quantity limits for the generator's usual category.

95. "Equivalent method" means any testing or analytical method approved by the Department under 335-14-1-.03(1).

96. “Evaluated hazardous waste pharmaceutical” means a prescription hazardous waste pharmaceutical that has been evaluated by a reverse distributor in accordance with 335-14-7-.16(10)(a)3. and will not be sent to another reverse distributor for further evaluation or verification of manufacture credit.

97. “Excluded scrap metal” for the purposes of 335-14-2-.01 is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

98. "Exempted waste" for the purposes of 335-14-7-.14 means a waste that meets the eligibility criteria in 335-14-7-.14(3) and meets all of the conditions in 335-14-7-.14(4), or meets the eligibility criteria in 335-14-7-.14(12) and complies with all the conditions in 335-14-7-.14(13). Such waste is conditionally exempted from the regulatory definition of hazardous waste described in 335-14-2-.01(3).

99. "Existing aboveground used oil tank" means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation has commenced on or prior to the effective date of these rules. Installation will be considered to have commenced if the owner or operator has obtained all federal, State of Alabama, and local approvals or permits necessary to begin installation of the tank and if either:

(i) A continuous on-site installation program has begun, or

(ii) The owner or operator has entered into contractual obligations-which cannot be canceled or modified without substantial loss-for installation of the tank to be completed within a reasonable time.

100. "Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if:

(i) The owner or operator had obtained the Federal, State of Alabama, and local approvals or permits necessary to begin actual construction; and

(ii) Either

(I) a continuous on-site physical construction program had begun; or

(II) the owner or operator had entered into contractual obligations which could not be canceled or modified without substantial loss for physical construction of the facility to be completed within a reasonable time.

101. "Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

102. "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all Federal, State of Alabama, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

(i) A continuous on-site physical construction or installation program has begun; or

(ii) The owner or operator has entered into contractual obligations - which cannot be canceled or modified without substantial loss - for physical construction of the site or installation of the tank system to be completed within a reasonable time.

103. "Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

104. "Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

105. "Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other Federal, State of Alabama, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

106. "Extent of contamination" means the horizontal and vertical area in which the concentrations of hazardous constituents in environmental media are above detection limits or background concentrations indicative of the region, whichever is appropriate as determined by the Department.

107. "Facility" or "hazardous waste management facility" or "HWM facility" means:

(i) All contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

(ii) For the purpose of implementing corrective action under 335-14-5-.06(12), all contiguous property under the control of the owner or operator seeking a permit under Chapter 30 of Title 22, Code of Ala. 1975, (AHWMMA). This definition also applies to facilities implementing corrective action under §22-30-19 et seq., Code of Ala. 1975, and/or RCRA Section 3008(h).

(iii) Notwithstanding subparagraph (ii) of this definition, a remediation waste management site is not a facility that is subject to 335-14-5-.06(12), but is subject to corrective action requirements if the site is located within such a facility.

108. "Facility mailing list" for the purposes of 335-14-8 means the mailing list for a facility maintained by ADEM in accordance with 335-14-8-.08(6)(c)1.(iv).

109. "Facility owner" means a person who owns a facility. In most cases, this will be the "operator" or the "owner".

110. "Federal, State of Alabama and local approvals or permits necessary to begin physical construction" means permits and approvals required under Federal, State of Alabama, or local hazardous waste control statutes, regulations, or ordinances.

111. "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136-136y).

112. "Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under 335-14-5 and 335-14-6 are no longer conducted at the facility unless subject to the provisions in 335-14-3-.01(6) and 335-14-3-.01(7).

113. "Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

114. “Formal written affiliation agreement” for the purposes of 335-14-3-.12 for a non-profit research institute means a written document that establishes a relationship between institutions for the purposes of research and/or education and is signed by authorized representatives, as defined by 335-14-1-.02 for each institution. A relationship on a project-by-project basis or grant-by-grant basis is not considered a formal written affiliation agreement. A “formal written affiliation agreement” for a teaching hospital means a master affiliation agreement and program letter of agreement, as defined by the Accreditation Council for Graduate Medical Education, with an accredited medical program or medical school.

115. "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

116. "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

117. "Functionally equivalent component" for the purposes of 335-14-8 means a component which performs the same function or measurement and which meets or exceeds the performance specifications of another component.

118. "Generator" means:

(i) Any person, by individual generation site, whose act or process produces hazardous waste identified or listed in Chapter 335-14-2 or whose act first causes

a hazardous waste to become subject to regulation. The term generator includes those persons further defined as a large quantity generator, a small quantity generator, and/or a conditionally exempt small quantity generator.

(ii) For the purposes of 335-14-3-.08 is a person as defined in 335-14-1-.02, but such term shall not include the treatment, storage, disposal, or other management of solid or hazardous wastes received from off-site when the final disposal of the waste occurs at the same facility which treated, stored, or otherwise managed the waste.

119. "Geologist" means a person who holds a license as a professional geologist under the Alabama Professional Geologist Licensing Act.

120. "Groundwater" means water below the land surface in a zone of saturation.

121. "Hazardous constituents" are those substances listed in 335-14-2 Appendix VIII and/or 335-14-5 Appendix IX and include hazardous constituents released from solid waste, hazardous waste, or hazardous waste constituents that are reaction by-products.

122. “Hazardous secondary material” means a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste under 335-14-2.

123. “Hazardous secondary material generator” means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this paragraph, “generating facility” means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For the purposes of 335-14-2-.01(4)(a)23., a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

124. "Hazardous waste" means a hazardous waste as defined in 335-14-2-.01(3).

125. "Hazardous waste constituent" means a constituent that caused the Department to list the hazardous waste in 335-14-2-.04 or a constituent listed in Table 1 of 335-14-2-.03(5).

126. "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or

the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

127. "Hazardous waste pharmaceutical" means a pharmaceutical that is a solid waste, as defined in 335-14-2-.01(2), and exhibits one or more characteristics identified in 335-14-2-.03 or is listed in 335-14-2-.04. A pharmaceutical is not a solid waste, as defined in 335-14-2-.01(2), and therefore not a hazardous waste pharmaceutical, if it is legitimately used/reused (e.g., lawfully donated for its intended purpose) or reclaimed. An over-the-counter pharmaceutical, dietary supplement, or homeopathic drug is not a solid waste, as defined in 335-14-2-.01(2), and therefore not a hazardous waste pharmaceutical, if it has a reasonable expectation of being legitimately used/reused (e.g., lawfully redistributed for its intended purpose) or reclaimed.

128. "Healthcare facility" means any person that is lawfully authorized to:

(i) Provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or

(ii) Distribute, sell, or dispense pharmaceuticals, including over-the-counter pharmaceuticals, dietary supplements, homeopathic drugs, or prescription pharmaceuticals. This definition includes, but is not limited to, wholesale distributors, third-party logistics providers that serve as forward distributors, military medical logistics facilities, hospitals, psychiatric hospitals, ambulatory surgical centers, health clinics, physicians' offices, optical and dental providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary clinics, and veterinary hospitals. This definition does not include pharmaceutical manufacturers, reverse distributors, or reverse logistics centers.

129. “Home scrap metal” for the purposes of 335-14-2-.01 means scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

130. “Household waste pharmaceutical” means a pharmaceutical that is a solid waste, as defined in 335-14-2-.01(2), but is excluded from being a hazardous waste under 335-14-2-.01(4)(b)1.

131. In operation" for the purposes of 335-14-8 refers to a facility which is treating, storing, or disposing of hazardous waste.

132. "Inactive portion" means that portion of a facility which is not operated after November 19, 1980. (See also "active portion" and "closed portion".)

133. "Inactive range" for the purposes of 335-14-7-.13 means a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

134. "Incinerator" means any enclosed device that:

(i) Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

(ii) Meets the definition of infrared incinerator or plasma arc incinerator.

135. "Incompatible waste" means a hazardous waste which is unsuitable for:

(i) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g. container inner liners or tank walls); or

(ii) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases. (See Appendix V of 335-14-5 and 6 for examples.)

136. “Independent requirement” means a requirement of 335-14-3 that states an event, action, or standard that must occur or be met; and that applies without relation

to, or irrespective of, the purpose of obtaining a conditional exemption from storage facility permit, interim status, and operating requirements under 335-14-3.

137. "Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

138. "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

(i) Cement kilns;

(ii) Lime kilns;

(iii) Aggregate kilns;

(iv) Phosphate kilns;

(v) Coke ovens;

(vi) Blast furnaces;

(vii) Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces);

(viii) Titanium dioxide chloride process oxidation reactors;

(ix) Methane reforming furnaces;

(x) Pulping liquor recovery furnaces;

(xi) Combustion devices used in the recovery of sulfur values from spent sulfuric acid; and

(xii) Halogen acid furnaces for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3 percent, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the

furnace has a minimum halogen content of 20 percent as-generated.

(xiii) Such other devices as the Department may, after notice and comment, add to this list on the basis of one or more of the following factors:

(I) The design and use of the device primarily to accomplish recovery of material products;

(II) The use of the device to burn or reduce raw materials to make a material product;

(III) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

(IV) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

(V) The use of the device in common industrial practice to produce a material product; and

(VI) Other factors, as appropriate.

139. "Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

140. "Inground tank" means a device meeting the definition of "tank" in 335-14-1-.02 whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

141. "Injection well" means a bored, drilled, or driven shaft or dug hole which is used for the injection of pollutants. (See also "underground injection".)

142. "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

143. "Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

144. “Intermediate facility” means any facility that stores hazardous secondary materials for more than 10 days, other than a hazardous secondary material generator or reclaimer of such material.

145. "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

146. “Laboratory” for the purposes of 335-14-3-.12 means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.

147. “Laboratory clean-out” for the purposes of 335-14-3-.12 means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor/occupant. A regularly scheduled removal of unwanted material as required by 335-14-3-.12(9) does not qualify as a laboratory clean-out.

148. “Laboratory worker” for the purposes of 335-14-3-.12 means a person who handles chemicals and/or unwanted material in a laboratory and may include, but is not limited to, faculty, staff, post-doctoral fellows, interns, researchers, technicians, supervisors/managers, and principal investigators. A person does not need to be paid or otherwise compensated for his/her work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.

149. "Lamp", also referred to as "universal waste lamp", means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps

include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

150. “Land-based unit” means an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

151. "Land Disposal Restriction (LDR) treatment standards" for the purposes of 335-14-7-.14 means treatment standards, under 335-14-9, that a RCRA hazardous waste must meet before it can be disposed of in a RCRA hazardous waste land disposal unit.

152. "Land surveyor" means a person registered as a licensed Land Surveyor with the Alabama Board of Licensure for Professional Engineers and Land Surveyors and practicing under the Rules of Professional Conduct (Code of Ethics).

153. "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

154. "Land use controls" has the same meaning as in 335-15-1-.02.

155. "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave or a corrective action management unit.

156. "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

157. "Large Quantity Generator (LQG)" is a is a generator who generates any of the following amounts in a calendar month:

(i) Greater than or equal to 1,000 kilograms (2200 lbs) of non-acute hazardous waste; or

(ii) Greater than 1 kilogram (2.2 lbs) of acute hazardous waste listed in 335-14-2-.04(2) or 335-14-2-.04(4)(e); or

(iii) Greater than 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 335-14-2-.04(2) or 335-14-2-.04(4)(e). The generator's twelve-month period is assigned by county in the “specified month schedule” located at 335-14-1-.02(1)(a)

158. "Large quantity handler of universal waste" means a universal waste handler (as defined in 335-14-1-.02) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, lamps, or aerosol cans, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000 kilogram limit is met or exceeded.

159. "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

160. "Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

161. "License" for the purposes of 335-14-7-.14 means a license issued by the Nuclear Regulatory Commission, or NRC Agreement State, to users that manage radionuclides regulated by NRC, or NRC Agreement States, under authority of the Atomic Energy Act of 1954, as amended.

162. "Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, waste pile, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

163. “Long-term care facility” means a licensed entity that provides assistance with activities of daily living, including managing and administering pharmaceuticals to one or more individuals at the facility. This definition

includes, but is not limited to, hospice facilities, nursing facilities, skilled nursing facilities, and the nursing and skilled nursing care portions of continuing care retirement communities. Not included within the scope of this definition are group homes, independent living communities, assisted living facilities, and the independent and assisted living portions of continuing care retirement communities

164. "Low-Level Mixed Waste (LLMW)" for the purposes of 335-14-7-.14 is a waste that contains both low-1evel radioactive waste and RCRA hazardous waste.

165. "Low-Level Radioactive Waste (LLW)" for the purposes of 335-14-7-.14 is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-1evel radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e.(2) of the Atomic Energy Act. (See also NRC definition of "waste" at 10 CFR 61.2)

166. "Low-Level Radioactive Waste Disposal Facility (LLRWDF)" for the purposes of 335-14-7-.14 is a disposal facility licensed by the NRC or an NRC Agreement State to dispose of low-1evel radioactive waste.

167. "Major facility" for the purposes of 335-14-8 means any facility or activity classed as such by the Department.

168. "Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and/or disposal of hazardous waste.

169. "Manifest" means the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), or the electronic manifest, originated and signed in accordance with the applicable requirements of 335-14-3 through 335-14-6.

170. "Manifest tracking number" means the alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits), which is pre-printed in Item 4 of the Manifest by a registered source.

171. “Mercury-containing equipment” means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

172. "Method detection limit or MDL" means the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix type containing the analyte.

173. "Military" for the purposes of 335-14-7-.13 means the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

174. "Military munitions" means all ammunition products and components produced or used by or for the US Department of Defense or the US Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the US Coast Guard, the US Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

175. "Military range" for the purposes of 335-14-7-.13 means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

176. "Mining overburden returned to the mine site" means any material overlaying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

177. "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR Part 146, containment building, corrective action management unit, unit eligible for a research, development and demonstration permit under 335-14-8-.06(4); or staging pile.

178. "Mixed waste" means a solid waste that is a mixture of hazardous waste [as defined in 335-14-2-.01(3)] and radioactive waste (as defined in 10 CFR 61.2). The radioactive component of mixed waste is subject to regulation by the Atomic Energy Act (AEA)/Nuclear Regulatory Commission (NRC). The non-radioactive chemically hazardous component of mixed waste is subject to regulation by the AHWMMA and ADEM Admin. Code r. 335-14.

179. "Month" means a month of the year.

180. "Monthly" means once during each month of the year.

181. "Motor vehicle manufacturing" means the manufacture of automobiles and light trucks/utility vehicles (including light duty vans, pick-up trucks, minivans, and sport utility vehicles). Facilities must be engaged in manufacturing complete vehicles (body and chassis or unibody) or chassis only.

182. "Movement" means that hazardous waste transported to a facility in an individual vehicle.

183. "National Pollutant Discharge Elimination System" or "NPDES" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and enforcing pretreatment requirements under the Alabama Water Pollution Control Act, Code of Ala. 1975, §§22-22-1 to 22-22-14, as amended, and the regulations in Division 6 of the Department's Administrative Code.

184. "Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)" for the purposes of 335-14-7-.14 means radioactive materials that:

(i) Are naturally occurring and are not source, special nuclear, or byproduct materials (as defined by the AEA) or

(ii) Are produced by an accelerator.

[**Note:** NARM is regulated by the States under State law, or by DOE (as authorized by the AEA) under DOE orders.]

185. "New aboveground used oil tank" means an aboveground tank that will be used to store or process used oil and for which installation has commenced after the effective date of these rules.

186. "New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced after November 19, 1980.

187. "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986; except, however, for purposes of 335-14-5-.10(4)(g)4. and 335-14-6-.10(4)(g)4., a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system".)

188. Non-acute hazardous waste means all hazardous wastes that are not acute hazardous waste, as defined 335-14-1-.02(1).

189. “Non-creditable hazardous waste pharmaceutical” means a prescription hazardous waste pharmaceutical that does not have a reasonable expectation to be eligible for manufacturer credit or a nonprescription hazardous waste pharmaceutical that does not have a reasonable expectation to be legitimately used/reused or reclaimed. This includes but is not limited to, investigational drugs, free samples of pharmaceuticals received by healthcare facilities, residues of pharmaceuticals remaining in empty containers, contaminated personal protective equipment, floor sweepings, and clean-up material from the spills of pharmaceuticals.

190. Non-hazardous waste pharmaceutical means a pharmaceutical that is a solid waste, as defined in 335-14-2-.01(2), and is not listed in 335-14-2-.04, and does not exhibit a characteristic identified in 335-14-2-.03.

191. “Non-pharmaceutical hazardous waste” means a solid waste, as defined in 335-14-2-.01(2), that is listed in 335-14-2-.04, or exhibits one or more characteristics identified in 335-14-2-.03, but is not a pharmaceutical, as defined in this 335-14-1-.02.

192. “Non-profit research institute” for the purposes of 335-14-3-.12 means an organization that conducts research

as its primary function and files as a non-profit organization under the tax code of 26 U.S.C. 501(c)(3).

193. "NRC" for the purposes of 335-14-7-.14 means the U. S. Nuclear Regulatory Commission.

194. “No free liquids” for the purposes of 335-14-2-.01(4)(a)26. and 335-14-2-.01(4)(b)18. means that solvent-contaminated wipes may not contain free liquids as determined by Method 9095B (Paint Filter Liquids Test), included in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods” (EPA Publication SW-846), which is incorporated by reference, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method as defined by the Department.

195. "One-time shipment" means a unique waste received at a commercial hazardous waste disposal facility which originated from a single generator and is not routinely produced by that generator on a regularly recurring basis. Such waste would include, but would not be limited to, lab packs. Other examples might include spill cleanups, or the removal of obsolete or outdated commercial chemicals.

196. "Onground tank" means a device meeting the definition of "tank" in 335-14-1-.02 and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

197. "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which he/she controls and to which the public does not have access, are also considered on-site property.

198. "Open burning" means the combustion of any material without the following characteristics:

(i) Control of combustion air to maintain adequate temperature for efficient combustion;

(ii) Containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(iii) Control of emission of the gaseous combustion products.

199. "Operating day" means any day on which hazardous waste is treated, stored, or disposed of in a unit. For example, each day that a hazardous waste storage unit contains hazardous waste is an operating day; as is each day that a disposal unit contains or receives hazardous waste, or each day that hazardous waste is treated in a treatment unit.

200. "Operating facility" as used in 335-14-5-.08 and 335-14-6-.08 means a facility with active treatment, storage, and/or disposal units subject to the requirements of 335-14-5, 335-14-6, and 335-14-8.

201. "Operator" means the person responsible for the overall operation of a facility.

202. "Other wastes" are wastes as defined in rule 335-14-1-.02 that are not hazardous waste as defined in rule 335-14-2-.01.

203. "Owner" means the person who owns in fee simple the property on which a facility or part of a facility is sited.

204. "Parent corporation" means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

205. "Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 335-14-5 and 335-14-6 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

206. "Permit" for the purposes of 335-14-8 means an authorization or equivalent control document issued by the Department to implement the requirements of 335-14-8. Permit does not include any authorization which has not been the subject of final administrative action, such as a draft permit or a proposed permit; but permit does include interim status permits to the extent set out in rule 335-14-8-.07.

207. "Person" means any and all persons, natural or artificial, including, but not limited to any individual, partnership, association, society, joint stock company, firm company, corporation, institution, trust, estate, or other legal entity or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.

208. "Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of 335-14-5 or 335-14-6.

209. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(i) Is a new animal drug under Federal Food, Drug, and Cosmetic Act (FFDCA) section 201(w); or

(ii) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug; or

(iii) Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by paragraph (i) or (ii) of this definition.

(iv) Is an animal feed under FFDCA Section 201(x) that bears or contains any substances described by 335-14-11-.01(3)(a) or (b).

210. "Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking or other processes (i.e., facilities classified as SIC 2911).

211. “Pharmaceutical” means any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine (e-1iquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., pre-filled cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by 21 CFR 203.3(y); over-the-counter drugs; homeopathic drugs;

compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. This definition does not include dental amalgam or sharps.

212. "Physical construction" for the purposes of 335-14-8 means excavation, movement of earth, erection of forms or structures, or similar activity to prepare a hazardous waste management facility to accept hazardous waste.

213. "Pile" means any non-containerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

214. “Planned episodic event” means an episodic event that the generator planned and prepared for, including regular maintenance, tank cleanouts, short-term projects, and removal of excess chemical inventory.

215. "Plasma arc incinerator" means any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

216. "Plastic" means the non-metallic compounds that result from a chemical reaction and are molded or formed into rigid or pliable construction materials.

217. "Plastic battery chips" for the purposes of 335-14-7 means whole components and any pieces thereof which are constructed of plastic and utilized in a lead-acid battery.

218. "Plates and groups" for the purposes of 335-14-7 means the internal components of a lead-acid battery which are constructed of lead and/or lead alloys. Plates and groups shall be considered a spent material (solid waste) and a hazardous waste (D008) due to the concentration of leachable lead therein.

219. "Point source" means any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

220. "Post-closure facility" as used in 335-14-5-.08 and 335-14-6-.08 means a facility at which all treatment, storage, and/or disposal units have been closed in accordance with 335-14-5-.07 or 335-14-6-.07, at which the owner or operator is unable to demonstrate closure by removal in accordance with 335-14-8-.01(1)(c)5., for one or more units.

221. "Post-closure only permit" for the purposes of 335-14-8 means a permit for a facility at which the only hazardous waste treatment, storage, or disposal activities conducted which require a permit pursuant to 335-14-8 are activities related to the post-closure care, monitoring, and/or corrective actions performed at closed hazardous waste management units. Corrective actions specified in post-closure only permits shall include activities related to regulated hazardous waste management units as well as solid waste management units (SWMU) and areas of concern (AOC).

222. "Post-closure permit" for the purposes of 335-14-8 means a permit which addresses the post-closure care requirements for closed hazardous waste treatment, storage, or disposal unit(s) at a facility. The term "post-closure permit" includes both post-closure only permits and the post-closure care portions of operating permits.

223. "Post-closure plan" as used in 335-14-5-.08 and 335-14-6-.08 means the plan for post-closure care prepared in accordance with the requirements of 335-14-5-.07(8) through (11) or 335-14-6-.07(8) through (11).

224. “Potentially creditable hazardous waste pharmaceutical” means a prescription hazardous waste pharmaceutical that has a reasonable expectation to receive manufacturer credit and is:

(i) In original manufacturer packaging (except pharmaceuticals that were subject to a recall);

(ii) Undispensed; and

(iii) Unexpired or less than one-year past expiration date. The term does not include evaluated hazardous waste pharmaceuticals or nonprescription pharmaceuticals including, but not limited to, over-the-counter drugs, homeopathic drugs, and dietary supplements.

225. "Privatized municipal waste treatment facility" means a facility which is operated to treat domestic and/

or industrial wastewaters from a municipality or industrial park and which otherwise meets the definition of a publicly owned treatment works (POTW), but which is not publicly owned.

226. “Processed scrap metal” for the purposes of 335-14-2-.01 means scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and, fines, drosses and related materials which have been agglomerated.

[**Note:** Shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled [335-14-2-.01(4)(a)14.].

227. “Prompt scrap metal” for the purposes of 335-14-2-.01 means scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

228. "Publicly owned treatment works" or "POTW" means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by the State of Alabama or municipality [as defined by section 502(4) pf the Clean Water Act]. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

229. "Qualified Groundwater Scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by State of Alabama registration, professional certifications, or completion of accredited university courses that enable that individual to make sound professional judgments regarding groundwater monitoring and contaminant fate and transport.

230. "Quarter" means a period of three consecutive months.

231. "Quarterly" means once during each period of three consecutive months for a total of four times each calendar year.

232. "RCRA" means the Federal Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. §§6901 et seq.).

233. "Reactive acutely hazardous unwanted material" for the purposes of 335-14-3-.12 means an unwanted material that is one of the acutely hazardous commercial chemical products listed in 335-14-2-.04(4)(e) for reactivity.

234. "Reclaimed" for the purposes of 335-14-2-.01 means a material that is processed to recover a usable product, or one that is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents. In addition, for purposes of 335-14-2-.01(4)(a)23. and 335-14-2-.01(4)(a)24, smelting, melting, and refining furnaces are considered to be solely engaged in metals reclamation if the metal recovery from the hazardous secondary materials meets the same requirements as those specified for metals recovery from hazardous waste found in 335-14-7-.08(1), and if the residuals meet the requirements specified in 335-14-7-.08(13)

235. "Recycled" for the purposes of 335-14-2-.01 means a material is used, reused, or reclaimed.

236. "Regional Administrator" means the Regional Administrator for the EPA Region in which the facility is located, or his designee.

237. "Release" means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, escaping, leaching, pumping, or disposing into the environment of any hazardous waste or hazardous constituent.

238. "Remanufacturing" means processing a higher-value hazardous secondary material in order to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For the purpose of this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.

239. "Remediation waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup, pursuant to the requirements of 335-14-5-.19(1), (2), and (3).

240. "Remediation waste management site" means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under 335-14-5-.06(12), but is subject to corrective action requirements if the site is located in such a facility.

241. "Replacement unit" means a landfill, surface impoundment, or waste pile unit [1] from which all or substantially all of the waste is removed, and [2] that is subsequently reused to treat, store, or dispose of hazardous waste. "Replacement unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility in accordance with an approved closure plan or EPA or State of Alabama approved corrective action.

242. "Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole.

243. "Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

244. “Reverse distributor” means any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that processes prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.

245. "Rubber" means any of numerous synthetic elastic materials of varying chemical composition with properties similar to those of natural rubber.

246. "Rubber battery chips" for the purposes of 335-14-7 means whole components and any pieces thereof which are constructed of rubber and utilized in a lead-acid battery.

247. "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

248. "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

249. "Satellite accumulation" means accumulation of as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste as listed in 335-14-2-.04(4)(e) in containers at or near any point of generation where the wastes initially accumulates, provided the generator complies with 335-14-3-.03(5)(c).

250. "Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

251. "Schedule of compliance" for the purposes of 335-14-8 means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements leading to compliance with the AHWMMA and Division 335-14.

252. "Scrap metal" for the purposes of 335-14-2-.01 means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars) which when worn or superfluous can be recycled.

253. "SDWA" or the "Safe Drinking Water Act" for the purposes of 335-14-8 means Code of Alabama 1975, §§ 22-23-30 to 22-23-54, as amended.

254. "Semi-annual" means a six-month period.

255. "Semi-annually" means once during each six-month period for a total of two times each calendar year.

256. "Site" means the land or water area where any facility, generator, or activity is physically located or conducted, including adjacent land used in connection with the facility, generator, or activity.

257. "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

258. "Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb. of sludge treated on a wet-weight basis.

259. "Small Quantity Generator (SQG)" is a generator who generates the following amounts in a calendar month:

(i) Greater than 100 kilograms (220 lbs) but less than 1,000 kilograms (2200 lbs) of non-acute hazardous waste; and

(ii) Less than or equal to 1 kilogram (2.2 lbs) of acute hazardous waste listed in 335-14-2-.04(2) or 335-14-2-.04(4)(e); and

(iii) Less than or equal to 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 335-14-2-.04(2) or 335-14-2-.04(4)(e). The generator's twelve-month period is assigned by county in the "specified month schedule" located at 335-14-1-.02(1)(a).

260. "Small quantity handler of universal waste" means a universal waste handler (as defined in 335-14-1-.02) who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, lamps, or aerosol cans, calculated collectively) at any time.

261. "Solid waste" means a waste as defined by 335-14-2-.01(2).

262. "Solid waste management unit or SWMU" includes any unit which has been used for the treatment, storage, or disposal of solid waste at any time, irrespective of whether the unit is or ever was intended for the management of solid waste. Units subject to regulation under 335-14-5, 335-14-6, 335-14-7, or 335-14-8 are also solid waste management units. SWMU's include areas that have been contaminated by routine and systematic releases of hazardous waste or hazardous constituents, excluding one-time accidental spills that are immediately remediated and cannot be linked to solid waste management activities (e.g., product or process spills).

263. "Solvent-contaminated wipe" means a wipe that, after the use or after cleaning up a spill, either (1) contains one or more of the F001 through F005 solvents listed in 335-14-2-.04(2) or the corresponding P- or U- listed solvents found in 335-14-2-.04(4); (2) exhibits a hazardous characteristic found in 335-14-2-.03 when that characteristic results from a solvent listed in Chapter 335-14-2; and/or (3) exhibits only the hazardous waste characteristic of ignitability found in 335-14-2-.03(2) due to the presence of one or more solvents that are not

listed in Chapter 335-14-2. Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at a335-14-2-.01(4)(a)26. and 335-14-2-.01(4)(b)18

264. "Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. "Sorb" means to either adsorb or absorb, or both.

265. "Specified month schedule" for the purposes of the "Annual Submission of ADEM Form 8700-12" is defined by the chart below according to the county in which the facility is located.

If your site of waste generation is located in the county of …	**Submit ADEM Form 8700-12 by the 15th of …**
Colbert, Fayette, Franklin, Greene, Hale, Lamar, Lauderdale, Lawrence, Limestone, Marion, Morgan, Pickens, Sumter, Tuscaloosa, Walker, Winston	February
Blount, Cherokee, Cullman, DeKalb, Etowah, Jackson, Madison, Marshall, St. Clair	April
Jefferson	June
Calhoun, Chambers, Clay, Cleburne, Coosa, Elmore, Lee, Macon, Montgomery, Randolph, Shelby, Talladega, Tallapoosa	August
Autauga, Baldwin, Barbour, Bibb, Bullock, Butler, Chilton, Choctaw, Clarke, Coffee, Conecuh, Covington, Crenshaw, Dale, Dallas, Escambia, Geneva, Henry, Houston, Lowndes, Marengo, Monroe, Perry, Pike,	October

If your site of waste generation is located in the county of …	**Submit ADEM Form 8700-12 by the 15th of …**
Russell, Washington, Wilcox	
Mobile	December

266. "Spent materials" for the purposes of 335-14-2-.01 and 335-14-7 means those materials which have been used, and as a result of that use become contaminated by physical or chemical impurities, and can no longer serve the purpose for which they were produced without being regenerated, reclaimed, or otherwise reprocessed. For the purposes of 335-14-7, spent materials shall include all battery components, including but not limited to plates and groups, plastic and rubber battery chips, paper/ cellulose materials and acid removed from a spent lead-acid battery.

(i) Contamination means any impurity, factor, or circumstance that causes the material to be taken out of service for reprocessing.

(ii) The portion of the definition stating a spent material "can no longer serve the purpose for which they were produced" is satisfied when the material is no longer serving its original purpose and is being reprocessed or being accumulated prior to reprocessing.

267. "Spill" means the unplanned, accidental, or unpermitted discharge, deposit, injection, leaking, pumping, pouring, emitting, dumping, placing, or releasing of hazardous wastes, or materials which when spilled become hazardous wastes, into or on the land, the air, or the water.

268. "Staging pile" means an accumulation of solid, non-flowing remediation waste (as defined in 335-14-1-.02) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Department according to the requirements of 335-14-5-. 19(3).

269. "State" means any of the United States except the State of Alabama.

270. "Storage" means the actual or intended containment of wastes, either on a temporary basis or for a period of

years, in such a manner as not to constitute disposal of such wastes.

271. "Storage facility" means any facility or part of a facility at which hazardous waste is placed in storage, exclusive of transfer facilities where waste is stored for ten days or less and on-site storage by generators in compliance with 335-14-3-.03(5).

272. "Storm event" means a 1-year, 24-hour storm event or rainfall which measures 1 inch or greater in 1 hour or less as determined by measurements taken at the facility, or the closest official weather monitoring station.

273. "Substantial business relationship" means the extent of a business relationship necessary under applicable State of Alabama law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the owner or operator is demonstrated to the satisfaction of the Department.

274. "Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

275. "Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

276. "SWMU corrective action facility" for the purposes of 335-14-5-.08 means a facility which is subject to the requirements of 335-14-5-.06(12) for the corrective action of Solid Waste Management Units, and has been issued a permit or an enforceable document (as defined in 335-14-8-.01(1)(c)7.) in accordance with 335-14-8 or an order pursuant to Section 3008(h) of RCRA.

277. "Tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

278. "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

279. "Teaching hospital" for the purposes of 335-14-3-.12 means a hospital that trains students to become physicians, nurses or other health or laboratory personnel.

280. "TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

281. "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

282. "Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of rules 335-14-11-.02(4)(c)2. or 335-14-11-.03(4)(c)2.

283. "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized. An owner or operator who removes hazardous waste from a totally enclosed treatment system must comply with the applicable standards set forth in Chapter 335-14-3 with respect to any hazardous waste removed from the totally enclosed treatment facility. An owner or operator who removes hazardous waste from a totally enclosed treatment facility may not reintroduce the waste into the totally enclosed treatment facility unless the owner/operator has first complied with the applicable standards and permit requirements set forth in 335-14-5, 335-14-6, 335-14-8, and 335-14-9.

284. "Trade secret" includes, but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound or procedure, as well as production data or compilation of information, financial and marketing data, which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article of trade or a service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know of it.

285. "Trained professional" for the purposes of 335-14-3-.12 means a person who has completed the applicable RCRA training requirements of 335-14-3-.01(7)(a)7. for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance with 335-14-3-.01(6)(b)9.(iii) for small quantity generators and very small quantity generators that opt into 335-14-3-.12. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

286. "Transfer facility" means any transportation related facilities including loading docks, parking areas, storage areas, and other areas where shipments of hazardous waste or hazardous secondary materials are held for more than 24 hours and not longer than 10 days during the normal course of transportation. Transfer facilities that store hazardous waste for more than 10 days are subject to regulation as a storage facility under Chapters 335-14-5, 335-14-6, 335-14-8, and 335-14-9.

287. "Transport vehicle" means a motor vehicle or railcar used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

288. "Transportation" means the movement of wastes from the point of generation to any intermediate transfer points, and finally to the disposal site. 288.

289. "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

290. "Treatability study" means a study in which a hazardous waste is subjected to a treatment process to determine: [1] whether the waste is amenable to the treatment process, [2] what pretreatment (if any) is required, [3] the optimal process conditions needed to achieve the desired treatment, [4] the efficiency of a treatment process for a specific waste or wastes, or [5]

the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of 335-14-2-.01(4)(e) and (f) exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

291. "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to render such waste non-hazardous or less hazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous or less hazardous.

292. "Treatment facility" means a location at which wastes are subjected to treatment, and may include a facility where waste has been generated.

293. "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed or immobilized.

294. "Underground injection" means the injection of pollutants through a bored, drilled or driven shaft or dug hole.

295. "Underground source of drinking water" or "USDW" for the purposes of 335-14-8 means an aquifer or its portion:

(i)(I) Which supplies any public water system; or

(II) Which contains a sufficient quantity of groundwater to supply a public water system; and

(III) Currently supplies drinking water for human consumption; or

(IV) Contains fewer than 10,000 mg/liter total dissolved solids; and

(ii) Which is not an exempted aquifer.

296. "Underground tank" means a device meeting the definition of "tank" in 335-14-1-.02 whose entire surface

area is totally below the surface of and covered by the ground.

297. "Unexploded ordnance (UXO)" for the purposes of 335-14-7-.13 means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

298. "Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

299. "Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of Chapter 335-14-11:

(i) Batteries as described in 335-14-11-.01(2);

(ii) Pesticides as described in 335-14-11-.01(3);

(iii) Mercury-containing equipment as described in 335-14-11-.01(4);

(iv) Lamps as described in 335-14-11-.01(5); and

(v) Aerosol cans as described in 335-14-11-.01(6).

300. "Universal waste handler":

(i) Means:

(I) A generator [as defined in 335-14-1-.02(1)(a)] of universal waste; or

(II) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(ii) Does not mean:

(I) A person who treats [except under the provisions of 335-14-11-.02(4)(a) or (c) or 335-14-11-.03(4)(a) or (c)], disposes of, or

recycles [except under the provisions of 335-14-11-.02(4)(e) or 335-14-11-.03(4)(e)] universal waste; or

(II) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

301. "Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

302. "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

303. "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

304. “Unplanned episodic event” means an episodic event that the generator did not plan or reasonably did not expect to occur, including production process upsets, product recalls, accidental spills, or “acts of nature,” such as tornado, hurricane, or flood.

305. “Unwanted material” for the purposes of 335-14-3-.12 means any chemical, mixtures of chemicals, products of experiments or other material from a laboratory that is no longer needed, wanted or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to 335-14-2-.01(2), or a hazardous waste pursuant to 335-14-2-.01(3). If an eligible academic entity elects to use another equally effective term in lieu of “unwanted material,” as allowed by 335-14-3-.12(7)(a)1.(i), the equally effective term has the same meaning and is subject to the same requirements as “unwanted material”.

306. "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

307. "Used" or "reused" for the purposes of 335-14-2-.01 a material is used or reused if it is either:

(i) Employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

(ii) Employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

308. "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use, is contaminated by physical or chemical impurities.

309. "Used oil aggregation point" means any site or facility that accepts, aggregates, and/or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which oil is transported to the aggregation point in shipments of no more than 55 gallons. Used oil aggregation points may also accept used oil from household do-it-yourselfers.

310. "Used oil burner" means a facility where used oil not meeting the specification requirements in rule 335-14-17-.02(2) is burned for energy recovery in devices identified in rule 335-14-17-.07(2)(a).

311. "Used oil collection center" means any site or facility that is recognized by the Department, in accordance with rule 335-14-17-.04(2)(b) and accepts/ aggregates and stores used oil collected from used oil generators regulated under rule 335-14-17-.03 who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of rule 335-14-17-. 03(6). Used oil collection centers may also accept used oil from household do-it-yourselfers.

312. "Used oil fuel marketer" means any person who conducts either of the following activities:

(i) Directs a shipment of off-specification used oil from their facility to a used oil burner; or

(ii) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in rule 335-14-17-.02(2).

313. "Used oil generator" means any person, by individual generation site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

314. "Used oil processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of fuel oils, lubricants, or other used oil-derived products. Used oil processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining.

315. "Used oil processor/re-refiner" means a facility that processes used oil.

316. "Used oil tank" means any stationary device, designed to contain an accumulation of used oil which is constructed primarily of non-earthen materials, (e.g., wood, concrete, steel, plastic) which provides structural support.

317. "Used oil transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to rule 335-14-17-.03(1)(b)2. Transfer facilities that store used oil for more than 35 days are subject to regulation under rule 335-14-17.

318. "Used oil transporter" means any person who transports used oil, any person who collects used oil from more than one generator and transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental used oil processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

319. "User of the electronic manifest system" means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that:

(i) Is required to use a manifest to comply with:

(I) Any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or

(II) Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

(ii) Elects to use the system to obtain, complete and transmit an electronic manifest format supplied by the EPA electronic manifest system, or

(iii) Elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with 335-14-5-.05(2)(a)1.(v) or 335-14-6-.05(2)(a)2.(v). These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

320. "Very Small Quantity Generator (VSQG)" is a generator who generates less than or equal to the following amounts in a calendar month:

(i) 100 kilograms (220 lbs) of nonacute hazardous waste; and

(ii) 1 kilogram (2.2 lbs) of acute hazardous waste listed in 335-14-2-.04(2) or 335-14-2-.04(4)(e); and

(iii) 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 335-14-2-.04(2) or 335-14-2-.04(4)(e).

321. "Vessel" means every description of watercraft, used or capable of being used as a means of transportation on the water.

322. "Waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, including any material to be discarded by a generator, but such term does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under 33 U.S.C. §1342 or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954.

323. "Waste stream" for the purposes of 335-14-3-.08 means a waste of given characteristics that is unique to a particular process or individual generation site.

324. "Wastewater treatment unit" means a device which:

(i) Is part of a wastewater treatment facility that is subject to regulation under either Section 402 or 307(b) of the Clean Water Act; and

(ii) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in 335-14-2-.01(3), or that generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in 335-14-2-.01(3), or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in 335-14-2-.01(3); and

(iii) Meets the definition of tank or tank system in 335-14-1-.02.

325. "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

326. "Week" means a calendar week (e.g. Sunday-Saturday).

327. "Weekly" means once during each calendar week.

328. "Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

329. "Well injection" means "underground injection".

330. “Wipe” means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

331. “Working container” for the purposes of 335-14-3-.12 means a small container (i.e., two gallons or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

332. "Working day" for the purposes of 335-14-3-.08 means any day, Monday through Friday, on which the offices of the Alabama Department of Environmental Management are open for business, and shall not include weekends or any State of Alabama observed holiday.

333. "Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

334. The following terms are used in the specifications for the financial tests for closure, post-closure care, and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

(i) "Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

(ii) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(iii) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(iv) "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR §144.62(a), (b), and (c) or any State equivalent.

(v) "Independently audited" refers to an audit performed by an independent certified public

accountant in accordance with generally accepted auditing standards.

(vi) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(vii) "Net working capital" means current assets minus current liabilities.

(viii) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(ix) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

335. In the liability insurance requirements the terms "bodily injury" and "property damage" shall have the meanings given these terms by applicable State of Alabama law. However, these terms do not include those liabilities which, consistent with standard industry practice, are excluded from coverage in liability policies for bodily injury and property damage. The Department intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

(i) "Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

(ii) "Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

(iii) "Nonsudden accidental occurrence" means an occurrence which takes place over time and involves continuous or repeated exposure.

(iv) "Sudden accidental occurrence" means an occurrence which is not continuous or repeated in nature.

(2) References.

The Environmental Protection Agency Regulations as they exist as set forth in 40 CFR §260.11 (as published on June 14, 2005, and as amended on September 8, 2005; October 12, 2005; July 18, 2007; May 18, 2012; November 28, 2016; and July 7, 2020) are incorporated herein by reference.

A list of the publications and analytical testing methods incorporated by reference are available for purchase and inspection at the Department's offices at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

Author: Stephen C. Maurer; Stephen A. Cobb; Steven O. Jenkins; Robert W. Barr; Lynn T. Roper; Edwin C. Johnston; Kelley Lockhart; Vernon H. Crockett; Bradley N. Curvin; Theresa A. Maines; Heather M. Jones; Corey S. Holmes; Metz P. Duites; Linda J. Knickerbocker; Sonja B. Favors; Brent A. Watson; Jonah L. Harris

Statutory Authority: Code of Ala. 1975, §§22-30-3, 22-30-11.

History: November 19, 1980. **Amended:** April 9, 1986; September 29, 1986; February 15, 1988; August 24, 1989; December 6, 1990; April 2, 1991; January 25, 1992; January 1, 1993. **Amended:** Filed November 30, 1994; effective January 5, 1995. **Amended:** Filed December 8, 1995; effective January 12, 1996. **Amended:** Filed February 21, 1997; effective March 28, 1997. **Amended:** Filed February 20, 1998; effective March 27, 1998. **Amended:** Filed February 26, 1999; effective April 2, 1999. **Amended:** Filed February 25, 2000; effective March 31, 2000. **Amended:** Filed March 9, 2001; effective April 13, 2001. **Amended:** Filed February 8, 2002; effective March 15, 2002. **Amended:** Filed March 13, 2003; effective April 17, 2003. **Amended:** Filed April 22, 2004; effective May 27, 2004. **Amended:** Filed February 24, 2005; effective March 31, 2005. **Amended:** Filed February 28, 2006; effective April 4, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed April 22, 2008; effective May 27, 2008. **Amended:** Filed February 24, 2009; effective March 31, 2009. **Amended:** Filed February 23, 2010; effective March 30, 2010. **Amended:** Filed February 23, 2011; effective March 30, 2011. **Amended:** Filed February 28, 2012; effective April 3, 2012. **Amended:** Filed February 19, 2013; effective March 26, 2013. **Amended:** Filed February 24, 2015; effective March 31, 2015. **Amended:** Filed February 23, 2016; effective April 8, 2016. **Amended:** Filed February 14, 2017; effective March 31, 2017. **Amended:** Filed February 20, 2018; effective April 7, 2018. **Amended:** Filed February 19, 2019; effective April 6, 2019. **Amended:** Published February 28, 2020; effective April 13, 2020. **Amended:** Published December 31, 2020; effective February 14, 2021. **Amended:** Published April 28, 2023; effective June 12, 2023. **Amended:** Published December 31, 2025; effective February 14, 2026.

335-14-1-.03 Rulemaking Petitions.

(1) Petitions for equivalent testing or analytical methods.

(a) Any person seeking to add a testing or analytical method to Chapters 335-14-2, 335-14-5 or 335-14-6 may petition for such addition under 335-14-1-.03(1). To be successful the person must demonstrate to the satisfaction of the Director that the proposed method is equal to or superior to the corresponding method prescribed in Chapters 335-14-2, 335-14-5 or 335-14-6, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

(b) Each petition must be submitted to the Department by certified mail and must include:

1. The petitioner's name and address;

2. A statement of the petitioner's interest in the proposed action;

3. A statement of the need and justification for the proposed action;

4. A full description of the proposed method, including all procedural steps and equipment used in the method;

5. A description of the types of waste or waste matrices for which the proposed method may be used;

6. Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in Chapters 335-14-2, 335-14-5 or 335-14-6;

7. An assessment of any factors which may interfere with, or limit the use of, the proposed method;

8. A description of the quality control procedures necessary to ensure the sensitivity, accuracy, and precision of the proposed method; and

9. A copy of the Federal Register notice indicating that EPA has added the testing or analytical method to 40 CFR Parts 261, 264 or 265.

(c) After receiving a petition for an equivalent method, the Department may request any additional information on the proposed method which it may reasonably require to evaluate the method.

(d) If the Director permits the use of a new testing method, the applicant will be notified and allowed to use the method pending the next revision of Division 335-14. When Division 335-14 is next amended after such a determination, the equivalent method will be proposed to be added to the rules and will be treated as any other rule amendment under Code of Ala. 1975, §22-22A-8.

(2) Petitions to amend Chapter 335-14-2 to exclude a waste produced at a particular facility.

(a) Any person seeking to exclude a waste at a particular generating facility from the lists in 335-14-2-.04 may petition for such exclusion under 335-14-1-.03(2). To be successful:

1. The petitioner must demonstrate to the satisfaction of the Director that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous or an acutely hazardous waste; and

2. Based on a complete application [335-14-1-.03(2)(i)], the Director must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A waste which is so excluded, however, still may be a hazardous waste by operation of 335-14-2-.03.

(b) The procedures in rules 335-14-1-.03(2) and 335-14-1-.03 may also be used to petition the Director for a regulatory amendment to exclude from 335-14-2-.01(3)(a)2.(ii) or (c), a waste which is described in these subparagraphs and is either a waste listed in 335-14-2-.04 or is derived from a waste listed in 335-14-2-.04. This exclusion may only be issued for a particular generating, storage, treatment, or disposal facility. The petitioner must make the same demonstration as required by 335-14-1-.03(2)(a). Where the waste is a mixture of solid waste and one or more listed hazardous wastes or is derived from one or more hazardous wastes, his demonstration must be made with respect to the waste mixture as a whole; analyses must be conducted for not only those constituents for which the listed waste contained in the mixture was listed as hazardous, but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste. A waste which is so excluded may still be a hazardous waste by operation of 335-14-2-.03.

(c) If the waste is listed with codes “I”, “C”, “R”, or “E” in 335-14-2-.04,

1. The petitioner must show that the waste does not exhibit the relevant characteristic for which the waste was listed as defined in 335-14-2-.03(2), (3), (4), or (5) using any applicable methods prescribed therein. The petitioner also must show that the waste does not exhibit any of the other characteristics defined in 335-14-2-.03(2), (3), (4), or (5) using any applicable methods prescribed therein;

2. Based on a complete application, the Director must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A waste which is so excluded, however, still may be a hazardous waste by operation of 335-14-2-.03;

(d) If the waste is listed with code "T" in 335-14-2-.04,

1. The petitioner must demonstrate that the waste:

(i) Does not contain the constituent or constituents (as defined in 335-14-2-Appendix VII) that caused the Department to list the waste; or

(ii) Although containing one or more of the hazardous constituents (as defined in 335-14-2 Appendix VII) that caused the Department to list the waste, does not meet the criterion of 335-14-2-.02(2)(a)3. when considering the factors used by the Department in 335-14-2-.02(2)(a)3.(i) through (xi) under which the waste was listed as hazardous; and

2. Based on a complete application, the Director must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste; and

3. The petitioner must demonstrate that the waste does not exhibit any of the characteristics defined in 335-14-2-.03(2), (3), (4), or (5) using any applicable methods prescribed therein;

4. A waste which is so excluded, however, still may be a hazardous waste by operation of Rule 335-14-2-.03.

(e) If the waste is listed with the code "H" in 335-14-2-.04,

1. The petitioner must demonstrate that the waste does not meet the criterion of 335-14-2-.02(2)(a)2.; and

2. Based on a complete application, the Director must determine, where he has a reasonable basis to believe that additional factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste; and

3. The petitioner must demonstrate that the waste does not exhibit any of the characteristics defined in 335-14-2-.03(2), (3), (4), and (5) using any applicable methods prescribed therein;

4. A waste which is so excluded, however, still may be a hazardous waste by operation of 335-14-2-.03.

(f) If a solid waste at a particular generating facility fails the test for the characteristic of toxicity described in 335-14-2-.03(5) because chromium is present or is listed in 335-14-2-.04 due to the presence of chromium, but does not fail the test for the toxicity characteristic for any other constituent and is not listed for any other constituent, the waste may be excluded from regulation as a hazardous waste, if the petitioner can demonstrate all of the following:

1. The waste meets the criteria for exclusion as described in 335-14-2-.01(4)(b)6.(i).

2. Where the waste is a mixture of solid waste and one or more listed or hazardous wastes or is derived from one or more hazardous wastes, this demonstration must be made with respect to the waste mixture as a whole; analyses must be conducted for not only chromium but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste.

3. Based on a complete application [335-14-1-.03(2)(i)], the Director must determine, where he has a reasonable basis to believe that other factors (including additional constituents) could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

(g) [Reserved]

(h) Demonstration samples must consist of enough representative samples, but in no case less than four samples, taken over a period of time sufficient to represent the variability or the uniformity of the waste.

(i) Each petition must be submitted to the Department by certified mail and must include:

1. The petitioner's name and address;

2. A statement of the petitioner's interest in the proposed action;

3. A statement of the need and justification for the proposed action;

4. The name and address of the laboratory facility performing the sampling or tests of the waste;

5. The names and qualifications of the persons sampling and testing the waste;

6. The dates of sampling and testing;

7. The location of the generating facility;

8. A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations or feed materials can or might produce a waste that is not covered by the demonstration;

9. A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;

10. Pertinent data on and discussion of the factors delineated in the respective criterion for listing a hazardous waste, where the demonstration is based on the factors in 335-14-2-.02(2)(a)3.; or for a trivalent chromium waste, the exclusion criteria at 335-14-2-.01(4)(b)6.(i);

11. A description of the methodologies and equipment used to obtain the representative samples;

12. A description of the sample handling and preparation techniques used for extraction, containerization, and preservation of the samples;

13. A description of the tests performed (including results);

14. The names and model numbers of the instruments used in performing the tests; and

15. The following statement signed by the generator of the waste:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted

in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(j) After receiving a petition for an exclusion, the Department may request any additional information which it may reasonably require to evaluate the petition. This may include, but is not limited to, samples of the waste collected and analyzed by the Department.

(k) An exclusion will only apply to the waste generated at the individual facility covered by the demonstration and will not apply to waste from any other facility.

(l) The Director may exclude only part of the waste for which the demonstration is submitted where he has reason to believe that variability of the waste justifies a partial exclusion.

(m) The Department will evaluate the application and issue a draft notice tentatively granting or denying the exclusion. Notification of the tentative decision will be provided by a one-time publication of notice in a daily or weekly major local newspaper of general circulation in the locality where the generator is located. The Department will accept comment on the tentative decision for a minimum of 30 days and may hold a hearing at its discretion. The Director will issue a final decision after the close of the comment period and hearing (if any).

(3) Petitions to amend Chapter 335-14-11 to include additional hazardous wastes.

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

(b) To be successful, the petitioner must demonstrate to the satisfaction of the Director that regulation under the universal waste regulations of 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. Each petition must be submitted to the Department by certified mail and must include:

1. The petitioner's name and address;

2. A statement of the petitioner's interest in the proposed action;

3. A description of the proposed action, including (where appropriate) suggested regulatory language; and

4. A statement of the need and justification of the proposed action, including any supporting tests, studies, or other information. The petition should also address as many of the factors listed in 335-14-11-.07(2) as are appropriate for the waste or category of waste addressed in the petition.

(c) 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.

(d) The Director may request additional information needed to evaluate the merits of the petition.

(e) The Department will evaluate the application and issue a draft notice tentatively granting or denying the addition of hazardous waste or category of hazardous waste to the universal waste regulations of Chapter 335-14-11. Notification of the tentative decision will be provided by a one-time publication of notice in a daily or weekly major local newspaper of general circulation in the locality where the generator is located. The Department will accept comment on the tentative decision for a minimum of 30 days and may hold a hearing at its discretion. The Director will issue a final decision after the close of the comment period and hearing (if any).

(4) through (9) [Reserved]

(10) Non-waste determinations and variances from classification as a solid waste. In accordance with the standards and criteria in 335-14-1-.03(11) and 335-14-1-.03(14) and the procedures in 335-14-1-.03(13), the Department may determine on a case-by-case basis that the following recycled materials are not solid wastes:

(a) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in 335-14-1-.02(3));

(b) Materials that are reclaimed and then reused within the original production process in which they were generated; or

(c) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered.

(d) Hazardous secondary materials that are reclaimed in a continuous industrial process; and

(e) Hazardous secondary materials that are indistinguishable in all relevant aspects from a product or intermediate.

(11) Standards and criteria for variances from classification as a solid waste.

(a) The Director may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The Director's decision will be based on the following criteria:

1. The manner in which the material is expected to be recycled, when the material is expected to be recycled and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material or contractual arrangements for recycling);

2. The reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;

3. The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

4. The extent to which the material is handled to minimize loss; and

5. Other relevant factors.

(b) The Director may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

1. How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

2. The extent to which the material is handled before reclamation to minimize loss;

3. The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;

4. The location of the reclamation operation in relation to the production process;

5. Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

6. Whether the person who generates the material also reclaims it; and

7. Other relevant factors.

(c) The Director may grant requests for a variance from classifying as a solid waste those hazardous secondary materials that have been partially reclaimed, but must be reclaimed further before recovery is completed, if the partial reclamation has produced a commodity-1ike material. A determination that a partially reclaimed material for which the variance is sought is commodity-1ike will be based on whether the hazardous secondary material is legitimately recycled as specified in 335-14-1-.03(23) and on whether all of the following decision criteria are satisfied:

1. Whether the degree of partial reclamation the material has undergone is substantial as demonstrated by using a partial reclamation process other than the process that generated the hazardous waste;

2. Whether the partially-reclaimed material has sufficient economic value that it will be purchased for further reclamation;

3. Whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;

4. Whether there is a market for the partially-reclaimed material as demonstrated by known customer(s) who are further reclaiming the material (e.g., records of sales

and/or contracts and evidence of subsequent use, such as bills of lading); and

5. Whether the partially-reclaimed material is handled to minimize loss.

(12) Variance to be classified as a boiler. In accordance with the standards and criteria in 335-14-1-.02(1) (definition of "boiler"), and the procedures in 335-1-.03(13), the Director may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of a boiler contained in 335-14-1-.02(1), after considering the following criteria:

(a) The extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids or heated gases; and

(b) The extent to which the combustion chamber and energy recovery equipment are of integral design; and

(c) The efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(d) The extent to which exported energy is utilized; and

(e) The extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids or heated gases; and

(f) Other factors as appropriate.

(13) Procedures for variances from classification as a solid waste or to be classified as a boiler, or for non-waste determinations. The Department will use the following procedures in evaluating applications for variances from classification as a solid waste, applications to classify particular enclosed controlled flame combustion devices as boilers, or applications for non-waste determinations:

(a) The applicant must apply to the Department for the variance or non-waste determination. The application must address the relevant criteria contained in 335-14-1-.03(11), (12), or (14), as applicable.

(b) The Department will evaluate the application and issue a draft notice tentatively granting or denying the application. Notification of the tentative decision will be provided by newspaper advertisement or radio broadcast in the locality where the recycler is located, if the recycler is within Alabama, or in the locality where the generator is located, if the recycler is located outside Alabama. The Department will

accept comment on the tentative decision for 30 days, and may also hold a public hearing upon request or at its discretion. The Director will issue a final decision after receipt of comments and after the hearing (if any).

(c) In the event of a change in circumstances that affect how a hazardous secondary material meets the relevant criteria contained in 335-14-1-.03(11), (12) or (14) upon which a variance or non-waste determination has been based, the applicant must send a description of the change in circumstances to the Director. The Director may issue a determination that the hazardous secondary material continues to meet the relevant criteria of the variance or non-waste determination or may require the facility to re-apply for the variance or non-waste determination.

(d) Variances and non-waste determinations shall be effective for a fixed term not to exceed ten years. No later than six months prior to the end of this term, facilities must re-apply for a variance or non-waste determination. If a facility re-applies for a variance or non-waste determination within six months, the facility may continue to operate under an expired variance or non-waste determination until receiving a decision on their re-application from the Director.

(e) Facilities receiving a variance or non-waste determination must provide notification as required by 335-14-1-.03(22).

(14) Standards and criteria for non-waste determinations.

(a) An applicant may apply to the Department for a formal determination that a hazardous secondary material is not discarded and therefore not a solid waste. The determinations will be based on the criteria contained in 335-14-1-.03(14)(b) or (c), as applicable. If an application is denied, the hazardous secondary material might still be eligible for a solid waste variance or exclusion (for example, one of the solid waste variances under 335-14-1-.03(11).

(b) The Department may grant a non-waste determination for hazardous secondary material which is reclaimed in a continuous industrial process if the applicant demonstrates that the hazardous secondary material is a part of the production process and is not discarded. The determination will be based on whether the hazardous secondary material is legitimately recycled as specified in 335-14-1-.03(23) and on the following criteria:

1. The extent that the management of the hazardous secondary material is part of the continuous primary production process and is not waste treatment;

2. Whether the capacity of the production process would use the hazardous secondary material in a reasonable time frame and ensure that the hazardous secondary material will not be abandoned (for example, based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);

3. Whether the hazardous constituents in the hazardous secondary material are reclaimed rather than released to the air, water or land at significantly higher levels from either a statistical or from a health and environmental risk perspective than would otherwise be released by the production process; and

4. Other relevant factors that demonstrate the hazardous secondary material is not discarded, including why the hazardous secondary material cannot meet, or should not have to meet, the conditions of an exclusion under 335-14-2-.01(2) or 335-14-2-.01(4).

(c) The Department may grant a non-waste determination for hazardous secondary material which is indistinguishable in all relevant aspects from a product or intermediate if the applicant demonstrates that the hazardous secondary material is comparable to a product or intermediate and is not discarded. The determination will be based on whether the hazardous secondary material is legitimately recycled as specified in 335-14-1-.03(23) and on the following criteria:

1. Whether market participants treat the hazardous secondary material as a product or intermediate rather than a waste (for example, based on the current positive value of the hazardous secondary material, stability of demand, or any contractual arrangements);

2. Whether the chemical and physical identity of the hazardous secondary material is comparable to commercial products or intermediates;

3. Whether the capacity of the market would use the hazardous secondary material in a reasonable time frame and ensure that the hazardous secondary material will not be abandoned (for example, based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);

4. Whether the hazardous constituents in the hazardous secondary material are reclaimed rather than released to the air, water or land at significantly higher levels from either a statistical or from a health and environmental risk perspective than would otherwise be released by the production process; and

5. Other relevant factors that demonstrate the hazardous secondary material is not discarded, including why the hazardous secondary material cannot meet, or should not have to meet, the conditions of an exclusion under 335-14-2-.01(2) or 335-14-2-.01(4).

(15) through (19) [Reserved]

(20) Additional regulation of certain hazardous waste recycling activities on a case-by-case basis.

(a) The Director may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in 335-14-2-.01(6)(a)2.(iii) should be regulated under 335-14-2-.01(6)(b) and (c). The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the Director will consider the following factors:

1. The types of materials accumulated or stored and the amounts accumulated or stored;

2. The method of accumulation or storage;

3. The length of time the materials have been accumulated or stored before being reclaimed;

4. Whether any contaminants are being released into the environment, or are likely to be so released; and

5. Other relevant factors.

(21) Procedures for case-by-case regulation of hazardous waste recycling activities. The Director will use the following procedures when determining whether to regulate hazardous waste recycling activities described in 335-14-2-.01(6)(a)2.(iii) under the provisions of 335-14-2-.01(6)(b) and (c), rather than under the provisions of Rule 335-14-7-.06.

(a) If a generator is accumulating the waste, the Department will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of Rules 335-14-3-.01, 335-14-3-.03, 335-14-3-.04 and 335-14-3-.05. The notice will become final within 30 days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the Department will hold a public hearing. The Department will provide notice of the hearing to the public and will allow public participation at the hearing. The

Director will issue a final order after the hearing stating whether or not compliance with Chapter 335-14-3 is required.

The order becomes effective 30 days after service of the decision unless the Department specifies a later date or unless review by the Commission is requested. The order may be appealed to the Commission by any person who participated in the public hearing. The Commission may choose to grant or to deny the appeal. Final Department action occurs when a final order is issued and Department review procedures are exhausted.

(b) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of Chapter 335-14-8. The owner or operator of the facility must apply for a permit within no less than 60 days and no more than six months of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the Director's decision, he may do so in his permit application, in a public hearing on the draft permit or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the Director's determination.

(22) Notification requirement for hazardous secondary materials.

(a) Facilities managing hazardous secondary materials under 335-14-1-.03(10), 335-14-2-.01(4)(a)23., 24., 25., or 27. must send a notification prior to operating under the regulatory provision and, thereafter, no later than the 15th of the month listed in the "specified month schedule" defined in 335-14-1-.02(1)(a) using ADEM Form 8700-12 or an electronic method used by the Department that includes the following information:

1. The name, address, and EPA ID number (if applicable) of the facility;

2. The name and telephone number of a contact person;

3. The NAICS code of the facility;

4. The regulation under which the hazardous secondary materials will be managed;

5. For reclaimers and intermediate facilities managing hazardous secondary materials in accordance with 335-14-2-.01(4)(a)24. or 25., whether the reclaimer or intermediate facility has financial assurance (not applicable for persons managing hazardous secondary materials generated and reclaimed under the control of the generator);

6. When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;

7. A list of hazardous secondary materials that will be managed according to the regulation (reported as the EPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);

8. For each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;

9. The quantity of each hazardous secondary material to be managed annually; and

10. The certification (included in ADEM Form 8700-12) signed and dated by an authorized representative of the facility.

(b) If a facility managing hazardous secondary materials has submitted a notification, but then subsequently stops managing hazardous secondary materials in accordance with the regulation(s) listed above, the facility must notify the Department within thirty (30) days using ADEM Form 8700-12 or an electronic method used by the Department. For purposes of 335-14-1-.03(22)(b), a facility has stopped managing hazardous secondary materials if the facility no longer generates, manages and/or reclaims hazardous secondary materials under the regulation(s) above and does not expect to manage any amount of hazardous secondary materials for at least 1 year.

(23) Legitimate recycling of hazardous secondary materials.

(a) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste. In determining if their recycling is legitimate, persons must address all the requirements of 335-14-1-.03(23)(a) and consider the requirements of 335-14-1-.03(23)(b).

1. Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if it:

(i) Contributes valuable ingredients to a product or intermediate; or

(ii) Replaces a catalyst or carrier in the recycling process; or

(iii) Is the source of a valuable constituent recovered in the recycling process; or

(iv) Is recovered or regenerated by the recycling process; or

(v) Is used as an effective substitute for a commercial product.

2. The recycling process must produce a valuable product or intermediate. The product or intermediate is valuable if it is:

(i) Sold to a third party; or

(ii) Used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.

3. The generator and the recycler must manage the hazardous secondary material as a valuable commodity when it is under their control. Where there is an analogous raw material, the hazardous secondary material must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material must be contained. Hazardous secondary materials that are released to the environment and are not recovered immediately are discarded.

(b) The following factor must be considered in making a determination as to the overall legitimacy of a specific recycling activity.

1. The product of the recycling process does not:

(i) Contain significant concentrations of any hazardous constituents found in 335-14-2 Appendix VIII that are not found in analogous products; or

(ii) Contain concentrations of hazardous constituents found in 335-14-2 Appendix VIII at levels that are significantly elevated from those found in analogous products, or

(iii) Exhibit a hazardous characteristic (as defined in 335-14-2-.03) that analogous products do not exhibit.

2. In making a determination that a hazardous secondary material is legitimately recycled, persons must evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these considerations, the factor in this paragraph is not met, then this fact may be an indication that the material is not legitimately recycled. However, the factor in this paragraph does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.

(c) [Reserved]

Author: Stephen C. Maurer, C. Lynn Garthright, C. Edwin Johnston, Michael Champion, Bradley N. Curvin, James K. Burgess, Vernon H. Crockett; Sonja B. Favors; Brent A. Watson; Jonah L. Harris
Statutory Authority: Code of Ala. 1975, §§22-30-9, 22-30-10, 22-30-11; 22-30-12.
History: November 19, 1980. **Amended:** April 9, 1986; September 29, 1986; February 15, 1988; August 24, 1989; December 6, 1990. **Amended:** Filed November 30, 1994; effective January 5, 1995. **Amended:** Filed March 22, 1995; effective April 26, 1995. **Amended:** Filed December 8, 1995; effective January 12, 1996. **Amended:** Filed February 21, 1997; effective March 28, 1997. **Amended:** Filed February 20, 1998; effective March 27, 1998. **Amended:** Filed March 9, 2001; effective April 13, 2001. **Amended:** Filed February 8, 2002; effective March 15, 2002. **Amended:** Filed March 13, 2003; effective April 17, 2003. **Amended:** Filed February 28, 2006; effective April 4, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed April 22, 2008; effective May 27, 2008. **Amended:** Filed February 24, 2009; effective March 31, 2009. **Amended:** Filed February 23, 2011; effective March 30, 2011. **Amended:** Filed February 23, 2016; effective April 8, 2016. **Amended:** Filed February 14, 2017; effective March 31, 2017. **Amended:** Filed February 20, 2018; effective April 7, 2018. **Amended:** Filed February 19, 2019; effective April 6, 2019. **Amended:** Published December 31, 2020; effective February 14, 2021. **Amended:** Published April 28, 2023; effective June 12, 2023. **Amended:** Published December 31, 2025; effective February 14, 2026.