

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-14-3-13
Rule Title: Alternative Standards for Episodic Generation

 New **X** Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? YES

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? NO

Does the proposed rule have an economic impact? NO

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

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer Mark Elliott

Date: July 21, 2020

(DATE FILED) JUL 20 2020
(STAMP)
REC'D & FILED
LEGISLATIVE SVC AGENCY

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**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE:

335 14-3-.01 General (Amend)
335 14-3-.04 Recordkeeping and Reporting Applicable to Small and Large
Quantity Generators (Amend)
335-14-3-.13 Alternative Standards for Episodic Generation (Amend)

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


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

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held September 17, 2020 at 10:30 AM in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: September 17, 2020

CONTACT PERSON AT AGENCY: Sonja Favors, Chief of the Industrial Hazardous Waste Branch, ADEM Land Division (334-279-3067)



Lance R. LeFleur
Director

335-14-3-.13 Alternative Standards for Episodic Generation

(1) Applicability. 335-14-3-.13 is applicable to very small quantity generators and small quantity generators as defined in 335-14-1-.02.

(2) [Reserved].

(3) Conditions for a generator managing hazardous waste from an episodic event.

(a) Very small quantity generator. A very small quantity generator may maintain its existing generator category for hazardous waste generated during an episodic event provided that the generator complies with the following conditions:

1. The very small quantity generator is limited to one episodic event per calendar year, unless a petition is granted under 335-14-3-.13(4);

2. Notification. The very small quantity generator must notify the Department no later than thirty (30) calendar days prior to initiating a planned episodic event using ADEM Form 8700-12. In the event of an unplanned episodic event, the generator must notify the Department within 72 hours of the unplanned event via phone, email, or fax and submit ADEM Form 8700-12 no later than thirty (30) calendar days following the unplanned event. The generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of hazardous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to an emergency in compliance with 335-14-3-.01(6)(b)9.(i);

3. EPA ID Number. The very small quantity generator must have an EPA identification number or obtain an EPA identification number using ADEM Form 8700-12;

4. Accumulation. A very small quantity generator is prohibited from accumulating hazardous waste generated from an episodic event on drip pads and in containment buildings. When accumulating hazardous waste in containers and tanks the following conditions apply:

(i) Containers. A very small quantity generator accumulating in episodic hazardous waste containers must mark or label its containers with the following:

a. The words "Episodic Hazardous Waste" and all appropriate EPA hazardous waste numbers associated with the waste as specified in 335-14-2-.03 and 335-14-2-.04; the EPA hazardous waste number;

b. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety

and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

c. The date upon which the episodic event began, clearly visible for inspection on each container.

(ii) Tanks. A very small quantity generator accumulating episodic hazardous waste in tanks must do the following:

a. Mark or label the tank with the words "Episodic Hazardous Waste" and all appropriate EPA hazardous waste numbers associated with the waste as specified in 335-14-2-.03 and 335-14-2-.04;~~the EPA hazardous waste number;~~

b. Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

c. Use inventory logs, monitoring equipment or other records to identify the date upon which each episodic event begins; and

d. Keep inventory logs or records with the above information on site and readily available for inspection.

(iii) Hazardous waste must be managed in a manner that minimizes the possibility of a fire, explosion, or release of hazardous waste or hazardous waste constituents to the air, soil, or water;

a. Containers must be in good condition and compatible with the hazardous waste being accumulated therein. Containers must be kept closed except to add or remove waste; and

b. Tanks must be in good condition and compatible with the hazardous waste accumulated therein. Tanks must have procedures in place to prevent the overflow (e.g., be equipped with a means to stop inflow with systems such as a waste feed cutoff system or bypass system to a standby tank when hazardous waste is continuously fed into the tank). Tanks must be inspected at least once each operating day to ensure all applicable discharge control equipment, such as waste feed cutoff systems, bypass systems, and drainage systems are in good working order and to ensure the tank is operated according to its design by reviewing the data gathered from monitoring equipment such as pressure and temperature gauges from the inspection.

5. The very small quantity generator must comply with the hazardous waste manifest provisions of 335-14-3-.02 when it sends its episodic event hazardous waste off site to a designated facility, as defined in 335-14-1-.02.

6. The very small quantity generator has up to sixty (60) calendar days from the start of the episodic event to manifest and send its hazardous waste generated from the episodic event to a designated facility, as defined in 335-14-1-.02.

7. Very small quantity generators must maintain the following records for three (3) years from the end date of the episodic event:

(i) Beginning and end dates of the episodic event;

(ii) A description of the episodic event;

(iii) A description of the types and quantities of hazardous wastes generated during the event;

(iv) A description of how the hazardous waste was managed as well as the name of the RCRA-designated facility that received the hazardous waste;

(v) Name(s) of hazardous waste transporters; and

(vi) An approval letter from the Department if the generator petitioned to conduct one additional episodic event per calendar year.

(b) Small quantity generators. A small quantity generator may maintain its existing generator category during an episodic event provided that the generator complies with the following conditions:

1. The small quantity generator is limited to one episodic event per calendar year unless a petition is granted under 335-14-3-.13(4);

2. Notification. The small quantity generator must notify the Department no later than thirty (30) calendar days prior to initiating a planned episodic event using ADEM Form 8700-12. In the event of an unplanned episodic event, the small quantity generator must notify the Department within 72 hours of the unplanned event via phone, email, or fax, and submit ADEM Form 8700-12 no later than thirty (30) calendar days following the unplanned event. The small quantity generator shall include the start date and end date of the episodic event and the reason(s) for the event, types and estimated quantities of hazardous wastes expected to be generated as a result of the episodic event, and identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to emergency;

3. EPA ID Number. The small quantity generator must have an EPA identification number or obtain an EPA identification number using EPA Form 8700-12; and

4. Accumulation by small quantity generators. A small quantity generator is prohibited from accumulating hazardous wastes generated from an episodic event waste on drip pads and in containment buildings. When accumulating hazardous waste generated from an episodic event in containers and tanks, the following conditions apply:

(i) **Containers.** A small quantity generator accumulating episodic hazardous waste in containers must meet the standards at 335-14-3-.01(6)(b)2. and must mark or label its containers with the following:

a. The words "Episodic Hazardous Waste" and all appropriate EPA hazardous waste numbers associated with the waste as specified in 335-14-2-.03 and 335-14-2-.04;~~the EPA hazardous waste number;~~

b. An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

c. The date upon which the episodic event began, clearly visible for inspection on each container.

(ii) **Tanks.** A small quantity generator accumulating episodic hazardous waste in tanks must meet the standards at 335-14-3-.01(6)(b)3. and must do the following:

a. Mark or label its tank with the words "Episodic Hazardous Waste" and all appropriate EPA hazardous waste numbers associated with the waste as specified in 335-14-2-.03 and 335-14-2-.04;~~the EPA hazardous waste number;~~

b. Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

c. Use inventory logs, monitoring equipment or other records to identify the date upon which each period of accumulation begins and ends; and

d. Keep inventory logs or records with the above information on site and available for inspection.

5. The small quantity generator must manifest and ship hazardous waste generated from an episodic event off site to a designated facility (as defined in 335-14-1-.02) within sixty (60) calendar days from the start of the episodic event.

6. The small quantity generator must maintain the following records for three (3) years from the end date of the episodic event:

- (i) Beginning and end dates of the episodic event;
 - (ii) A description of the episodic event;
 - (iii) A description of the types and quantities of hazardous wastes generated during the event;
 - (iv) A description of how the hazardous waste was managed as well as the name of the designated facility (as defined in 335-14-1-.02) that received the hazardous waste;
 - (v) Name(s) of hazardous waste transporters; and
 - (vi) An approval letter from the Department if the generator petitioned to conduct one additional episodic event per calendar year.
- (4) Petition to manage one additional episodic event per calendar year.
- (a) A generator may petition the Department for a second episodic event in a calendar year without impacting its generator category under the following conditions:
 - 1. If a very small quantity generator or small quantity generator has already held a planned episodic event in a calendar year, the generator may petition the Department for an additional unplanned episodic event in that calendar year within 72 hours of the unplanned event.
 - 2. If a very small quantity generator or small quantity generator has already held an unplanned episodic event in a calendar year, the generator may petition the Department for an additional planned episodic event in that calendar year.
 - (b) The petition must include the following:
 - 1. The reason(s) why an additional episodic event is needed and the nature of the episodic event;
 - 2. The estimated amount of hazardous waste to be managed from the event;
 - 3. How the hazardous waste is to be managed;
 - 4. The estimated length of time needed to complete management of the hazardous waste generated from the episodic event—not to exceed sixty (60) days; and
 - 5. Information regarding the previous episodic event managed by the generator, including the nature of the event, whether it was a planned or unplanned event, and how the generator complied with the conditions.
 - (c) The petition must be made to the Department in writing.
 - (d) The generator must retain written approval in its records for three (3) years from the date the episodic event ended.

Author: Vernon H. Crockett; Sonja B. Favors; Brent A. Watson; Jonah L. Harris

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

History: April 6, 2018; **Amended:** Proposed: July 21, 2020.