

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-14-2-.09
Rule Title: Use and Management of Containers

 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 Mandy Ellett

Date November 18, 2022

REC'D & FILED
NOV 18 2022
LEGISLATIVE SVC AGENCY

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE:

335-14-2-.01	General (Amend)
335-14-2-.03	Characteristics of Hazardous Waste (Amend)
335-14-2-.04	Lists of Hazardous Wastes (Amend)
335-14-2-.05	Exclusions/Exemptions (Amend)
335-14-2-.08	Financial Requirements for Management of Excluded Hazardous Secondary Materials (Amend)
335-14-2-.09	Use and Management of Containers (Amend)
335-14-2-.10	Tank Systems (Amend)
335-14-2-.13	Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials (Amend)
335-14-2-.27	Subpart AA-Air Emission Standards for Process Vents (Amend)
335-14-2-.28	Subpart BB-Air Emission Standards for Equipment Leaks (Amend)
335-14-2-.29	Subpart CC - Air Emission Standards for Tanks and Containers (Amend)
335-14-2-Appendix VIII	Hazardous Constituents (Amend)
335-14-2 Appendix IX	Wastes Excluded Under 335-14-1-.03(2) (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 January 24, 2023, at 2:00 pm in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: January 24, 2023

CONTACT PERSON AT AGENCY: Lynn Roper, Chief, Office of Land Services (334-271-7728)



Lance R. LeFleur
Director

335-14-2-.09 Use and Management of Containers

(1) Applicability

~~This subpart~~ 335-14-2-.09 applies to hazardous secondary materials excluded under the remanufacturing exclusion at 335-14-2-.01(4)(a)27. and stored in containers.

(2) Condition of containers

If a container holding hazardous secondary material is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the hazardous secondary material must be transferred from this container to a container that is in good condition or managed in some other way that complies with the requirements of ~~this part~~ 335-14-2-.09.

(3) Compatibility of hazardous secondary materials with containers.

The container must be made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous secondary material to be stored, so that the ability of the container to contain the material is not impaired.

(4) Management of containers

(a) A container holding hazardous secondary material must always be closed during storage, except when it is necessary to add or remove the hazardous secondary material.

(b) A container holding hazardous secondary material must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(5) **[Reserved].**

(6) Containment

(a) Container storage areas must have a containment system that is designed and operated in accordance with ~~paragraph~~ 335-14-2-.09(c)(b) of this section.

(b) A containment system must be designed and operated as follows:

1. A base must underlie the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

2. The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

3. The containment system must have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater.

4. Run-on into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in paragraph ~~335-14-2-.03(6)(b)(3) of this section~~ to contain any run-on which might enter the system; and

5. Spilled or leaked material and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.

(7) Special requirements for ignitable or reactive hazardous secondary material.

Containers holding ignitable or reactive hazardous secondary material must be located at least 15 meters (50 feet) from the facility's property line.

(8) Special requirements for incompatible materials.

(a) Incompatible materials must not be placed in the same container.

(b) Hazardous secondary material must not be placed in an unwashed container that previously held an incompatible material.

(c) A storage container holding a hazardous secondary material that is incompatible with any other materials stored nearby must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(9) **[Reserved].**

(10) Air emission standards.

The remanufacturer or other person that stores or treats the hazardous secondary material shall manage all hazardous secondary material placed in a container in accordance with the applicable requirements of 335-14-2-.27, 335-14-2-.28, and 335-14-2-.29.

Author: Bradley N. Curvin; Sonja B. Favors; Brent A. Watson; Jonah L. Harris.

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

History: April 8, 2016; **Amended:** Filed: February 28, 2020 ; Effective: April 13, 2020;

Proposed: November 18, 2022.