

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management  
Rule No. 335-14-5-.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

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Does the proposed rule have an economic impact?          NO

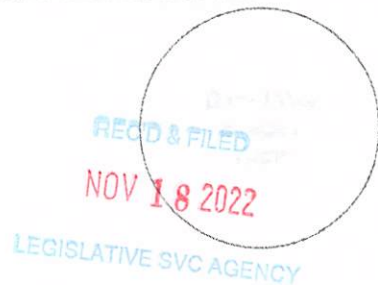
If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

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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 Elliott

Date November 18, 2022



**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
LAND DIVISION**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

**RULE NO. & TITLE:**

335-14-5-.01	General (Amend)
335-14-5-.02	General Facility Standards (Amend)
335-14-5-.05	Manifest Systems, Recordkeeping and Reporting (Amend)
335-14-5-.06	Releases from Solid Waste Management Units (Amend)
335-14-5-.08	Financial Requirements (Amend)
335-14-5-.09	Use and Management of Containers (Amend)
335-14-5-.10	Tank Systems (Amend)
335-14-5-.19	Special Provisions for Cleanup (Amend)
335-14-5-.27	Subpart AA – Air Emission Standards for Process Vents (Amend)
335-14-5-.28	Subpart BB – Air Emission Standards for Equipment Leaks (Amend)
335-14-5-.30	Containment Buildings (Amend)

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

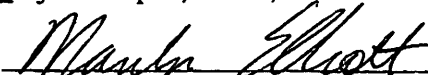
**SUBSTANCE OR PROPOSED ACTION:** Revise portions of Division 14 Regulations to incorporate changes to ensure consistency with State and Federal Statutes; to adopt certain State specific requirements; and to provide clarification of State requirements for the management of hazardous waste.

**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)

  
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Lance R. LeFleur  
Director

**335-14-5-.09      Use and Management of Containers.**

(1)            Applicability. The regulations in 335-14-5-.09 apply to owners and operators of all hazardous waste facilities that store containers of hazardous waste, except as 335-14-5-.01(1) provides otherwise.

[Comment: Under 335-14-2-.01(7) and 335-14-2-.04(4), if a hazardous waste is emptied from a container the residue remaining in the container is not considered a hazardous waste if the container is "empty" as defined in 335-14-2-.01(7). In that event, management of the container is exempt from the requirements of this 335-14-5-.09(1).]

(2)            Condition of containers. If a container holding a hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that complies with the requirements of 335-14-5.

(3)            Compatibility of waste with containers. The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(4)            Management of containers.

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

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

(c)            Containers having a capacity greater than 30 gallons must not be stacked over two containers high.

(5)            Inspections. At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. The owner or operator must also note the number and capacity of hazardous waste containers present. These inspections must be documented in accordance with 335-14-5-.02(6)(d). See 335-14-5-.02(6)(c) and 335-14-5-.09(2) for remedial action required if deterioration or leaks are detected.

~~[Comment: See 335-14-5-.02(6)(c) and 335-14-5-.09(2) for remedial action required if deterioration or leaks are detected.]~~

(6)            Containment.

(a)            Container storage areas must have a containment system that is designed and operated in accordance with 335-14-5-.09(6)(b), except as otherwise provided by 335-14-5-.09(6)(c).

(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. Containers that do not contain free liquids need not be considered in this determination;
4. Run-on into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in 335-14-5-.09(6)(b)3. to contain any run-on which might enter the system; and
5. Spilled or leaked waste must be removed from the sump or collection area in a timely manner not to exceed 24 hours after detection. Accumulated precipitation must be removed in as timely a manner necessary to prevent overflow of the collection system.

(c) Storage areas that store containers holding only wastes that do not contain free liquids need not have a containment system defined by 335-14-5-.09(6)(b), except as provided by 335-14-5-.09(6)(d) or provided that:

1. The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation, or
2. The containers are elevated or are otherwise protected from contact with accumulated liquid.

(d) Storage areas that store containers holding the wastes listed below that do not contain free liquids must have a containment system defined by 335-14-5-.09(6)(b):

1. F020, F021, F022, F023, F026, and F027;
2. **[Reserved].**

(7) Special requirements for ignitable or reactive waste. Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line.

(8) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials (see 335-14-5 - Appendix V for examples), must not be placed in the same container unless 335-14-5-.02(8)(b) is complied with.

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

(c) A storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall or other device.

(9) Closure and post-closure care.

(a) At closure, all hazardous waste and hazardous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with hazardous waste or hazardous waste residues must be decontaminated or removed.

(b) If the owner or operator cannot remove or decontaminate all waste required by 335-14-5-.09(9)(a), then the owner or operator must close the container storage area and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills [335-14-5-.14(11)].

(10) Air Emission Standards. The owner or operator shall manage all hazardous waste placed in a container in accordance with the applicable requirements of 335-14-5-.27, 335-14-5-.28, and 335-14-5-.29.

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**Statutory Authority:** Code of Alabama 1975, §§22-30-11, 22-30-16.

**History:** July 19, 1982. **Amended:** Effective: April 9, 1986; **Amended:** Effective: February 15, 1988; **Amended:** Effective: August 24, 1989; **Amended:** Effective: December 6, 1990; **Amended:** Effective: January 5, 1995; **Amended:** Effective: March 27, 1998; **Amended:** Effective: April 13, 2001; **Amended:** Effective: March 15, 2002; **Amended:** Effective: April 3, 2007; **Amended:** Effective: May 27, 2008; **Amended:** Effective: April 6, 2018; **Amended:** Filed February 28, 2020; Effective: April 13, 2020; **Proposed: November 18, 2022.**