

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
Rule No. 335-14-5-.05
Rule Title: Manifest System, Recordkeeping and Reporting

 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 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 Reference Service.

Signature of certifying officer Mary Elliott

Date September 20, 2011

APA-2
11/96

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE:

335-14-5-.01	<u>General</u> (Amend)
335-14-5-.02	<u>General Facility Standards</u> (Amend)
335-14-5-.04	<u>Contingency Plan and Emergency Procedures</u> (Amend)
335-14-5-.05	<u>Manifest System, Recordkeeping and Reporting</u> (Amend)
335-14-5-.06	<u>Releases from Solid Waste Management Units</u> (Amend)
335-14-5-.23	<u>Drip Pads</u> (Amend)

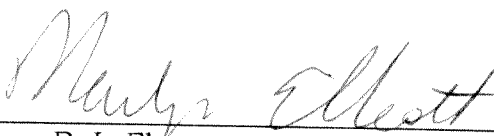
INTENDED ACTION: Revise Division 14 of the ADEM Administrative Code.

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 Monday, December 5, 2011 at 10:00 a.m. 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: Monday, December 5, 2011 at 5:00 p.m.

CONTACT PERSON AT AGENCY: James L. Bryant, Chief of the Environmental Services Branch, ADEM Land Division (334/271-7771)



Lance R. LeFleur
Director

335-14-5-.05 Manifest System, Recordkeeping and Reporting.

(1) Applicability.

(a) The requirements of 335-14-5-.05 apply to owners and operators of both on-site and off-site facilities, except as 335-14-5-.01(1) provides otherwise. 335-14-5-.05(2), (3), and (7) do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, or to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under 335-14-7-.13(4)(a). 335-14-5-.05(4)(b)9. only applies to permittees who treat, store, or dispose of hazardous wastes on-site where such wastes were generated.

(2) Use of manifest system.

(a) If a facility receives hazardous waste accompanied by a manifest, the owner, operator or his/her agent must sign and date the manifest as indicated in 335-14-5-.05(2)(a)1 to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

1. If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his agent must:

(i) Sign and date, by hand, each copy of the manifest;

(ii) Note any discrepancies [as defined in 335-14-5-.05(3)] on each copy of the manifest;

(iii) Immediately give the transporter at least one copy of the manifest;

(iv) Within 30 days of delivery, send a copy of the manifest to the generator; and

(v) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

2. If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming EPA's consent to the import of hazardous waste to the following address within thirty (30) days of delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

3. Within 60 days after the delivery, send a copy of the manifest to the Department.

(b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

1. Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

2. Note any significant discrepancies [as defined in 335-14-5-.05(3)(a)] in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

3. Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);

4. Within 30 days after the delivery, send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or his agent, must send a copy of the shipping paper signed and dated to the generator; and

5. Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 335-14-3.

(d) Within three (3) working days of the receipt of a shipment subject to rule 335-14-3-.09, the owner or operator of the facility must provide a copy of the movement document bearing all required signatures to the exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; to the Alabama Department of Environmental Management, Land Division, P.O. Box 301463, Montgomery, AL 36130; and to competent authorities of all other countries concerned. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature.

(e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under its state hazardous waste program. Facilities must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

(3) Manifest discrepancies.

(a) Manifest discrepancies are:

1. Significant differences [as defined by 335-14-5-.05(3)(b)] between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;
2. Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or
3. Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in 335-14-2-.01(7)(b).

(b) Significant differences in quantity are: For bulk waste, variations greater than 10 percent by weight; for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Regional Administrator and the Department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d) Upon rejecting the waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in 335-14-2-.01(7)(b), the facility must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility must send the waste to the alternative facility or to the generator within 60 days of the rejection or the container residue identification.

1. While the facility is making arrangements for forwarding rejected wastes or residues to another facility under 335-14-5-.05(3), it must ensure that either the delivering transporter retains custody of the waste, or, the facility must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under 335-14-5-.05(3)(e) or (f).

(e) Except as provided in 335-14-5-.05(3)(e)7., for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with 335-14-3-.02(1)(a) and the following instructions:

1. Write the generator's U.S. EPA ID number in Item 1. of the new manifest. Write the generator's name and mailing address in Item 5. of the new

manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

2. Write the name of the alternate designated facility and facility's U.S. EPA ID number in the designated facility block (Item 8.) of the new manifest.

3. Copy the manifest tracking number found in Item 4. of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

4. Copy the manifest tracking number found in Item 4. of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a.).

5. Write the DOT description for the rejected load or the residue in Item 9. (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

6. Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator indentified in Item 5 of the new manifest.

7. For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b. of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with 335-14-5-.05(3)(e)1.-6.

(f) Except as provided by 335-14-5-.05(3)(f)7. of this section, for rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with 335-14-3-.02(1)(a) and the following instructions:

1. Write the facility's U.S. EPA ID number in Item 1. of the new manifest. Write the facility's name and mailing address in Item 5. of the new manifest. If the mailing address is different from the facility's site address, then write the facility's site address in the designated space for Item 5 of the new manifest.

2. Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 8.) of the new manifest.

3. Copy the manifest tracking number found in Item 4. of the old manifest to the Special Handling and Additional Information Block of the new

manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

4. Copy the manifest tracking number found in Item 4. of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a.).

5. Write the DOT description for the rejected load or the residue in Item 9. (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

6. Sign the Generator's/Offeror's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

7. For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a. and 18b. of the manifest and supplying the generator's information in the Alternate Facility space. The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with 335-14-5-.05(3)(f)1. - 6. and 8.

8. For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in 335-14-3-.04(3).

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set forth in 335-14-2-.01(7) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4. of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

(4) Operating record.

(a) The owner or operator must keep a written operating record at his facility.

(b) The following information must be recorded, as it becomes available, and maintained in the operating record for three years (unless a different retention time is noted-specified as follows below):

1. A description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by 335-14-5-Appendix I. This information must be maintained in the operating record until closure of the facility;

2. The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste must be recorded on a map or diagram that shows each cell or disposal area. For all facilities, this information must include cross-references to manifest document numbers if the waste was accompanied by a manifest. This information must be maintained in the operating record until closure of the facility;

3. Records and results of waste analyses performed as specified in 335-14-5-.02(4) and (8), 335-14-5-.14(15), 335-14-5-.15(2), 335-14-5-.27(5), 335-14-5-.28(14), 335-14-5-.29(4), 335-14-9-.01(4), and 335-14-9-.01(7);

4. Summary reports and details of all incidents that require implementing the contingency plan as specified in 335-14-5-.04(7)(i);

5. Records and results of inspections as required by 335-14-5-.02(6)(d) (except these data need be kept only three years);

6. Monitoring, testing, or analytical data, and corrective action where required by rules 335-14-5-.06, 335-14-5-.02(10), 335-14-5-.10(2), 335-14-5-.10(4), 335-14-5-.10(6), 335-14-5-.11(3), 335-14-5-.11(4), 335-14-5-.11(7), 335-14-5-.12(3), 335-14-5-.12(4), 335-14-5-.12(5), 335-14-5-.13(7), 335-14-5-.13(9), 335-14-5-.13(11), 335-14-5-.14(3), 335-14-5-.14(4), 335-14-5-.14(5), 335-14-5-.14(10), 335-14-5-.24(3), 335-14-5-.27(5), 335-14-5-.27(6), 335-14-5-.28(14), 335-14-5-.28(15), and 335-14-5-.29(3) through (11). This information must be maintained in the operating record for three years, except for records and results pertaining to groundwater monitoring and cleanup which must be maintained in the operating record until closure of the facility;

7. For off-site facilities, notices to generators as specified in 335-14-5-.02(3)(b);

8. All closure cost estimates under 335-14-5-.08(3), and for disposal facilities, all post-closure cost estimates under 335-14-5-.08(5). This information must be maintained in the operating record until closure of the facility;

9. A certification by the permittee no less often than annually, that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that he generates to the degree determined by the permittee to be economically practicable; and the proposed method of treatment, storage, or disposal in that practicable method currently available to the permittee which minimizes the present and future threat to human health and the environment;

10. Records of the quantities and date of placement for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to 335-14-9-.01(5), a petition pursuant to 335-14-9-.01(6), or a certification under 335-14-9-.01(8), and the applicable notice required by a generator under 335-14-9-.01(7). This information must be maintained in the operating record until closure of the facility;

11. For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 335-14-9-.01(7) or 335-14-9-.01(8);

12. For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required by the generator or the owner or operator under 335-14-9-.01(7) or 335-14-9-.01(8);

13. For an off-site land disposal facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under 335-14-9-.01(7) and 335-14-9-.01(8), whichever is applicable;

14. For an on-site land disposal facility, the information contained in the notice required by the generator or owner or operator of a treatment facility under 335-14-9-.01(7), except for the manifest number, and the certification and demonstration, if applicable, required under 335-14-9-.01(8), whichever is applicable;

15. For an off-site storage facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 335-14-9-.01(7) or 335-14-9-.01(8);

16. For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required by the generator or the owner or operator under 335-14-9-.01(7) or 335-14-9-.01(8);

17. Any records required under 335-14-5-.01(1)(j)13;

18. Monitoring, testing or analytical data where required by 335-14-5-.15(8) must be maintained in the operating record for five years; and

19. Certifications as required by 335-14-5-.10(7)(f) must be maintained in the operating record until closure of the facility.

(5) Availability, retention, and disposition of records.

(a) All records, including plans, required under 335-14-5 must be furnished upon request, and made available at reasonable times for inspection by any officer, employee, or representative of the Department.

(b) The retention period for all records required under 335-14-5 is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the Department.

(c) A copy of records of waste disposal locations and quantities under 335-14-5-.05(4)(b)2. must be submitted to the Department and local land authority upon closure of the facility.

(6) Biennial report.

The owner or operator must prepare and submit a single copy of a biennial report to the Department by March 1 of each even numbered year. The biennial report must be submitted on the forms supplied by the Department. The owner or operator must retain copies of each biennial report for, at least, three (3) years from the due date of the report. The report must cover facility activities during the previous calendar year and must include:

(a) The EPA identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA identification number, name, and location address of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;

(d) A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities, this information must be listed by EPA identification number of each generator;

(e) The method of treatment, storage, or disposal for each hazardous waste;

(f) [Reserved];

(g) The most recent closure cost estimate under 335-14-5-.08(3), and, for disposal facilities, the most recent post-closure cost estimate under 335-14-5-.08(5);

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(i) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984; and

(j) The certification signed by the owner or operator of the facility or his authorized representative.

(7) Unmanifested waste report.

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in 335-14-4-.02(1)(e)2., and if the waste is not excluded from the manifest requirement, then the owner or operator must prepare and submit a single copy of a report to the Department and the Regional Administrator within 15 days after receiving the waste. The owner or operator must retain a copy of each unmanifested waste report for, at least, three (3) years from the due date of the report. Such report must be designated "Unmanifested Waste Report" and include the following information:

1. The EPA identification number, name, and address of the facility;
 2. The date the facility received the waste;
 3. The EPA identification number, name, and address of the generator and the transporter, if available;
 4. A description and the quantity of each unmanifested hazardous waste the facility received;
 5. The method of treatment, storage, or disposal for each hazardous waste;
 6. The certification signed by the owner or operator of the facility or his authorized representative; and
 7. A brief explanation of why the waste was unmanifested, if known.
- (b) [Reserved]

(8) Additional reports.

In addition to submitting the biennial reports and unmanifested waste reports described in 335-14-5-.05(6) and (7), the owner or operator must also report to the Department:

- (a) Releases, fires, and explosions as specified in 335-14-5-.04(7)(i);
- (b) Facility closures as specified in 335-14-5-.07(6); and
- (c) As otherwise required by rules 335-14-5-.06, 335-14-5-.11 through 335-14-5-.14, 335-14-5-.27, and 335-14-5-.28.

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Statutory Authority: Code of Alabama 1975, §§ 22-30-11, 22-30-16, 22-30-18 and 22-30-19.

History: July 19, 1982.

Amended: April 9, 1986; September 29, 1986; February 15, 1988;
August 24, 1989; December 6, 1990; January 25, 1992; January 1, 1993;
January 5, 1995; January 12, 1996; March 28, 1997; March 27, 1998;
April 2, 1999; March 31, 2000; April 13, 2001; April 4, 2006; April 3, 2007,
March 31, 2009; March 30, 2010; March 31, 2011; XXXXXXX.