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

CHAPTER 335-14-17 STANDARDS FOR THE MANAGEMENT OF USED OIL

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335-14-17-.01 [Reserved] (Repealed 3/31/05).

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335-14-17-.02 Applicability.

(1) Applicability. 335-14-17-.02(1) identifies those materials which are subject to regulation as used oil under 335-14-17. 335-14-17-.02(1) also identifies some materials that are not subject to regulation as used oil under 335-14-17, and indicates whether these materials may be subject to regulation as hazardous waste under Chapters 335-14-1 through 335-14-9.

(a) Used oil. The Department presumes that used oil is to be recycled unless a used oil handler disposes of used oil, or sends used oil for disposal. Except as provided in Rule 335-14-17-.02(2), the regulations of 335-14-17 apply to used oil, and to materials identified in 335-14-17-.02(1) as being

subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in Rule 335-14-2-.03.

(b) Mixtures of used oil and hazardous waste:

1. Listed hazardous waste.

(i) Mixtures of used oil and hazardous waste that is listed in Rule 335-14-2-.04 are subject to regulation as hazardous waste under Chapters 335-14-1 through 335-14-9, rather than as used oil under 335-14-17.

(ii) Rebuttable presumption for used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Rule 335-14-2-.04. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste [for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 335-14-2 - Appendix VIII].

(I) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Rule 335-14-17-.03(6)(c), to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oil/fluids are recycled in any other manner, or disposed.

(II) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

2. Characteristic hazardous waste. Mixtures of used oil and hazardous waste that solely exhibit one or more of the hazardous waste characteristics identified in Rule 335-14-2-.03 and mixtures of used oil and hazardous waste that are listed in Rule 335-14-2-.04 solely because they exhibit one or more of the characteristics of hazardous waste identified in Rule 335-14-2-.03 are subject to:

(i) Except as provided in 335-14-17-.02(1)(b)2.(iii) regulation as hazardous waste under Chapters 335-14-1 through 335-14-9 rather than as used oil under 335-14-17, if the resultant mixture exhibits any

characteristics of hazardous waste identified in Rule 335-14-2-.03; or

(ii) Except as provided in 335-14-17-.02(1)(b)2.(iii) regulation as used oil under this Chapter, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Rule 335-14-2-.03. Mixing a characteristic hazardous waste with used oil constitutes treatment if the characteristic waste is rendered nonhazardous, except as provided in 335-14-17-.02(1)(b)2.(iii), and requires that the owner/operator comply with the applicable standards and permit requirements set forth in Chapters 335-14-1 through 335-14-9 before any mixing occurs.

(iii) Regulation as used oil under 335-14-17, if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under Rule 335-14-2-.03(2).

3. Very small quantity generator hazardous waste. Mixtures of used oil and very small quantity generator hazardous waste regulated under Rule 335-14-2-.01(5) are subject to regulation as used oil under 335-14-17.

(c) Materials containing or otherwise contaminated with used oil.

1. Except as provided in 335-14-17-.02(1)(c)2., materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material:

(i) Are not regulated as used oil and thus not subject to 335-14-17; and

(ii) If applicable, are subject to the hazardous waste regulations of Chapters 335-14-1 through 335-1-4-9.

2. Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under 335-14-17.

3. Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under 335-14-17.

[**Note regarding used oil filters:** In order to demonstrate that free-flowing oil has been properly drained or removed from his used oil filters in accordance with rule 335-14-17-.02(1)(c)1., a generator must gravity hot-drain his used oil filters using one of the following methods:

(i) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;

(ii) Hot-draining and crushing;

(iii) Dismantling and hot-draining;

(iv) Any other equivalent hot-draining method which removes the free-flowing used oil as approved by the Department.]

(d) Mixtures of used oil with products.

1. Except as provided in 335-14-17-.02(1)(d)2., mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under 335-14-17.

2. Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to 335-14-17 once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Rule 335-14-17-.03.

(e) Materials derived from used oil.

1. Materials that are reclaimed from used oil that are used beneficially and are not burned for energy recovery or used in manner constituting disposal (e.g., re-refined lubricants) are:

(i) Not used oil and thus are not subject to 335-14-17, and

(ii) Not solid wastes and are thus not subject to the hazardous waste regulations of Chapters 335-14-1 through 335-14-9 as provided in 335-14-2.

2. Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under 335-14-17.

3. Except as provided in 335-14-17-.02(1)(e)4., materials derived from used oil that are disposed of or used in a manner constituting disposal are:

(i) Not used oil and thus are not subject to 335-14-17, and

(ii) Are solid wastes and are therefore subject to the Division 335-13 - Solid Waste regulations. If the materials are listed or identified as hazardous wastes, then they are subject to the applicable hazardous waste regulations found in Chapters 335-14-1 through 335-14-9.

4. Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to 335-41-17.

(f) Wastewater. Wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act (including wastewaters at facilities which have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to 335-14-17. For purposes of 335-14-17-.02(1)(f), "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

(g) Used oil introduced into crude oil pipelines or a petroleum refining facility.

1. Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from 335-14-17. The used oil is subject to 335-14-17 prior to the mixing of used oil with crude oil or natural gas liquids.

2. Mixtures of used oil and crude oil or natural gas liquids containing less than 1% used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from 335-14-17.

3. Used oil that is inserted into the petroleum refining facility process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from 335-14-17 provided that the used oil constitutes less than 1% of the crude oil feed to any petroleum refining facility process unit at any given time. Prior

to insertion into the petroleum refining facility process, the used oil is subject to 335-14-17.

4. Except as provided in 335-14-17-.02(1)(g)5., used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from 335-14-17 only if the used oil meets the specification of Rule 335-14-17-.02(2). Prior to insertion into the petroleum refining facility process, the used oil is subject to 335-14-17.

5. Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from 335-14-17. This exemption does not extend to used oil which is intentionally introduced into a hydrocarbon recovery system (e.g., by pouring collected used oil into the wastewater treatment system).

6. Used oil tank bottoms from stock used oil tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from 335-14-17.

(h) Used oil on vessels. Used oil produced on vessels from normal shipboard operations is not subject to 335-14-17 until it is transported ashore.

(i) Used oil containing PCBs. Used oil containing PCBs (as defined at 40 CFR 761.3) at any concentration less than 50 ppm is subject to the requirements of this chapter unless, because of dilution, it is regulated under 40 CFR Part 761 as a used oil containing PCBs at 50 ppm or greater. PCB-containing used oil subject to the requirements of this Chapter may also be subject to the prohibitions and requirements found at 40 CFR Part 761, including §761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this chapter, but is subject to the regulation under 40 CFR Part 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Chapter or Part 761. In addition to the requirements of Chapter 335-14-17, marketers and burners of used oil who market or burn used oil containing any quantifiable level of PCBs are subject to the requirements found in 40 CFR 761.20(e).

(2) Used oil specifications. Used oil burned for energy recovery, and any fuel produced from used oil by used oil processing, blending, or other treatment is subject to regulation under 335-14-17 unless it is shown not to exceed any of the allowable levels of the constituents and properties shown in Table 1. Once used oil that is to be burned for energy recovery has been shown

not to exceed any allowable level and the person making that showing complies with Rules 335-14-17-.08(3), (4), and (5)(b), the used oil is no longer subject to 335-14-17.

Table 1

Used Oil Not Exceeding Any Allowable Level Shown Below Is Not Subject To 335-14-17 When Burned For Energy Recovery[1]

Constituent/property	**Allowable Level**
Arsenic	5 ppm maximum.
Cadmium	2 ppm maximum.
Chromium	10 ppm maximum.
Lead	100 ppm maximum.
Flash point	100°F minimum.
Total halogens	4,000 ppm maximum.[2]

[1] - The allowable levels do not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste [see Rule 335-14-17-.02(1)(b)].

[2] - Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under Rule 335-14-17-.02(1)(b)1.(ii). Such used oil is subject to Rule 335-14-7-.08 rather than 335-14-17 when burned for energy recovery, unless the presumption of mixing can be successfully rebutted.

NOTE: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).

(3) Prohibitions.

(a) Surface impoundment prohibition. Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under Chapters 335-14-5 or 335-14-6.

(b) Use as a dust suppressant. The use of used oil as a dust suppressant is prohibited.

(c) Burning in particular units. Off-specification used oil fuel may be burned for energy recovery in only the following devices:

1. Industrial furnaces identified in Rule 335-14-1-.02.

2. Boilers, as defined in Rule 335-14-1-.02, that are identified as follows:

(i) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(ii) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or

(iii) Used oil-fired space heaters provided that the burner meets the provisions of Rule 335-14-17-.03(5).

3. Hazardous waste incinerators subject to regulation under Rules 335-14-5-.15 and 335-14-6-.15.

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335-14-17-.03 Standards For Used Oil Generators.

(1) Applicability.

(a) General. Except as provided in 335-14-17-.03(1)(a)1. through (a)4., 335-14-17-.03 applies to all used oil generators. A used oil generator is 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.

1. Household 'do-it-yourselfer' used oil generators. Household 'do-it-yourselfer' used oil generators are not subject to regulation under 335-14-17.

2. Vessels. Vessels at sea or at port are not subject to 335-14-17-.03. For purposes of 335-14-17-.03, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the person(s) removing or accepting used oil from the vessel

are co-generators of the used oil and are both responsible for managing the waste in compliance with 335-14-17-.03 once the used oil is transported ashore. The co-generators may decide among them which party will fulfill the requirements of 335-14-17-.03.

3. Diesel fuel. Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator's own vehicles are not subject to 335-14-17 once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of 335-14-17-.03.

4. Farmers. Farmers who generate an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to 335-14-17.

5. Identification Numbers. Used oil generators that generate an average of 25 gallons per month (or less) of used oil in a calendar year are not subject to Rule 335-14-17-.03(3).

(b) Other applicable provisions. Used oil generators who conduct the following activities are subject to the requirements of other applicable provisions of 335-14-17 as indicated in 335-14-17-.03(1)(b)1. through (b)5.

1. Used oil generators who transport used oil, except under the self-transport provisions of Rule 335-14-17-.03(6)(a) and (b), must also comply with Rule 335-14-17-.05.

2.(i) Except as provided in 335-14-17-.03(1)(b)(2.)(ii), used oil generators who process or re-refine used oil must also comply with Rule 335-14-17-.06.

(ii) Used oil generators who perform the following activities are not processors provided that the used oil is generated on-site and is not being sent off-site to a burner of on- or off-specification used oil fuel.

(I) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the used oil generator;

(II) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to Section 402 or Section 307(b) of the Clean Water Act or other applicable Federal or State of

Alabama regulations governing the management or discharge of wastewaters;

(III) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;

(IV) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to Rule 335-14-17-.02(1)(c); or

(V) Filtering, separating or otherwise reconditioning used oil before burning it in a space heater pursuant to Rule 335-14-17-.03(5).

3. Used oil generators who burn off-specification used oil for energy recovery, except under the on-site space heater provisions of Rule 335-14-17-.03(5), must also comply with Rule 335-14-17-.07.

4. Used oil generators who direct shipments of off-specification used oil from their facility to a used oil burner or first claim 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) must also comply with Rule 335-14-17-.08.

5. Used oil generators who dispose of used oil must also comply with Rule 335-14-17-.09.

(2) Hazardous Waste Mixing.

(a) Mixtures of used oil and hazardous waste must be managed in accordance with Rule 335-14-17-.02(1)(b).

(b) The rebuttable presumption for used oil of Rule 335-14-17-.02(1)(b)1.(ii) applies to used oil managed by generators. Under the rebuttable presumption for used oil of Rule 335-14-17-.02(1)(b)1.(ii), used oil containing greater than 1,000 ppm total halogens is presumed to be a hazardous waste and thus must be managed as hazardous waste and not as used oil unless the presumption is rebutted. However, the rebuttable presumption does not apply to certain metalworking oils/fluids and certain used oils removed from refrigeration units, as described in Rules 335-14-17-.02(1)(b)1.(ii)(I) and (II).

(3) Annual Submission of ADEM Form 8700-12, Notification of Regulated Waste Activity and Certifications of Waste Management. Used oil generators that generate an average of greater than 25 gallons of used oil per month in a calendar year must obtain an

EPA Identification Number within 30 days of the effective date of 335-14-17-.03 or prior to generating used oil, whichever is later.

(a) Mechanics of notification. A used oil generator must submit a correct and complete ADEM Form 8700-12 (including all appropriate attachment pages and fees) reflecting current used oil activities to the Department annually. The Department must receive the ADEM Form 8700-12, Notification of Regulated Waste Activity, (including all appropriate attachment pages and fees) no later than the 15th day of the specified month in the specified schedule located at rule 335-14-1-.02(1)(a).

(b) The submitted ADEM Form 8700-12, Notification of Regulated Waste Activity, will not be considered complete without payment of all the appropriate fees specified in Chapter 335-1-6 of the ADEM Administrative Code.

(c) Reserved.

(4) Used oil storage. Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of 335-14-17-.03. Used oil generators are also subject to the Underground Storage Tank (Division 335-6, Volume 2) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of 335-14-17-.03.

(a) Storage units. Used oil generators shall not store used oil in units other than used oil tanks, containers, or units subject to regulation under Chapters 335-14-5 and 335-14-6.

1. A container holding used oil must always be closed during storage, except when it is necessary to add or remove used oil.

2. The owner/operator must use appropriate controls and/or practices to prevent spills and overflows from used oil tanks. These include, but are not limited to:

(i) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(ii) Overflow controls for continuously fed used oil tanks (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standing used oil tank);

(iii) Freeboard controls in open used oil tanks designed to maintain sufficient freeboard to prevent overfilling or overtopping by wave action, wind action, or precipitation; and/or

(iv) Standard operating procedures requiring employees to check the oil level in a used oil tank by direct observation or remote sensing prior to placing oil in the used oil tank.

(b) Condition of units. Containers and aboveground used oil tanks used to store used oil at used oil generator facilities must be:

1. In good condition (no severe rusting, apparent structural defects or deterioration); and

2. Not leaking (no visible leaks).

(c) Labels. Labels must be legible from a distance of at least 25 feet.

1. Containers and used oil tanks, except underground tanks, used to store at used oil generator locations must be labeled or marked clearly with the words "Used Oil".

2. Fill pipes used to transfer used oil into underground storage tanks (or aboveground used oil tanks when an obstacle such as a wall or barrier is between the fill pipe and the aboveground used oil storage tank) at used oil generator facilities must be labeled or marked clearly with the words "Used Oil".

(d) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the corrective action requirements of Division 335-6, Volume 2 of the ADEM Administrative Code, which has occurred after the effective date of these Rules, a used oil generator must perform the following cleanup steps:

1. Stop the release;

2. Contain the released used oil;

3. Clean up and manage properly the released used oil and other materials in accordance with all applicable Division 335-13 and 335-14 requirements; and

4. If necessary, repair or replace any leaking used oil storage containers or used oil tanks prior to returning them to service.

(5) On-site burning in space heaters. Used oil generators may burn used oil in used oil-fired space heaters provided that:

(a) The heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators;

(b) The heater is designed to have a maximum capacity of not more than 0.5 million BTU per hour; and

(c) The combustion gases from the heater are vented to the ambient air.

(6) Off-site shipments. Except as provided in 335-14-17-.03(6)(a) through (c), used oil generators must ensure that their used oil is transported only by transporters who have obtained an EPA identification number and an Alabama Used Oil Transport Permit.

(a) Self-transportation of small amounts to approved collection centers. Used oil generators may transport, without an EPA identification number, used oil that is generated at the used oil generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that:

1. The used oil generator transports the used oil in a vehicle owned by the used oil generator or owned by an employee of the generator;

2. The used oil generator transports no more than 55 gallons of used oil at any time; and

3. The generator transports the used oil to a used oil collection center that has notified the Department in accordance with the procedures described in Rule 335-14-17-.04(2)(b).

(b) Self-transportation of small amounts to aggregation points owned by the used oil generator. Used oil generators may transport, without an EPA identification number, used oil that is generated at the used oil generator's site to an aggregation point provided that:

1. The used oil generator transports the used oil in a vehicle owned by the used oil generator or owned by an employee of the used oil generator;

2. The used oil generator transports no more than 55 gallons of used oil at any time; and

3. The used oil generator transports the used oil to an aggregation point that is owned and/or operated by the same used oil generator.

(c) Tolling arrangements. Used oil generators may arrange for used oil to be transported by a transporter without an EPA identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor/re-refiner to the used oil generator

for use as a lubricant, cutting oil, or coolant. The contract (known as a "tolling arrangement") must indicate:

1. The type of used oil and the frequency of shipments;

2. That the vehicle used to transport the used oil to the processing/re-refining facility and to deliver recycled used oil back to the used oil generator is owned and operated by the used oil processor/re-refiner; and

3. That reclaimed oil will be returned to the used oil generator.

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335-14-17-.04 Standards For Used Oil Collection Centers And Aggregation Points.

(1) Do-it-yourselfer used oil collection centers.

(a) Applicability. 335-14-17-.04(1) applies to owners or operators of all do-it-yourselfer (DIY) used oil collection centers. A DIY used oil collection center is any site or facility that accepts/aggregates and stores used oil collected only from household do-it-yourselfers.

(b) DIY used oil collection center requirements. Owners or operators of all DIY used oil collection centers must comply with the used oil generator standards in Rule 335-14-17-.03. DIY used oil collection centers are not required to comply with the notification requirements of Rule 335-14-17-.03(3) unless the used oil generator produces an average of greater than 25 gallons of used oil per month in a calendar year due to activities other than the acceptance of DIY used oil.

(2) Used oil collection centers.

(a) Applicability. 335-14-17-.04(2) applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that 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)(a). Used oil collection centers may also accept used oil from household do-it-yourselfers.

(b) Used oil collection center requirements. Owners or operators of all used oil collection centers must comply with the used oil generator standards in Rule 335-14-17-.03:

(3) Used oil aggregation points owned by the used oil generator.

(a) Applicability. 335-14-17-.04(3) applies to owners or operators of all used oil aggregation points. A used oil aggregation point is 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 used oil is transported to the aggregation point in shipments of no more than 55 gallons under the provisions of Rule 335-14-17-.03(6)(b). Used oil aggregation points may also accept used oil from household do-it-yourselfers.

(b) Used oil aggregation point requirements. Owners or operators of all used oil aggregation points must comply with the used oil generator standards in Rule 335-14-17-.03.

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335-14-17-.05 Standards For Used Oil Transporter And Transfer Facilities.

(1) Applicability.

(a) General. Except as provided in 335-14-17-.05(1)(a)1. through (a)4., 335-14-17-.05 applies to all used oil transporters. Used oil transporters are persons who transport used oil, persons who collect used oil from more than one used oil generator and transport the collected oil, and owners and operators of used oil transfer facilities.

1. 335-14-17-.05 does not apply to on-site transportation.

2. 335-14-17-.05 does not apply to used oil generators who transport shipments of used oil totaling 55 gallons or less from the used oil generator to a used oil collection center as specified in Rule 335-14-17-.03(6)(a).

3. 335-14-17-.05 does not apply to used oil generators who transport shipments of used oil totaling 55 gallons or less from the used oil generator to a used oil aggregation point owned or operated by the same used oil generator as specified in Rule 335-14-17-.03(6)(b).

4. 335-14-17-.05 does not apply to transportation of used oil generated from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor/re-refiner, or burner subject to 335-14-17. Except as provided in 335-14-17-.05(1)(a)1. through (a)3., 335-14-17-.05 does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.

(b) Imports and exports. Transporters who import used oil from abroad or export used oil outside of the United States are subject to the requirements of 335-14-17-.05 from the time the used oil enters and until the time it exits the United States.

(c) Trucks used to transport hazardous waste. Unless trucks previously used to transport hazardous waste are emptied as described in Rule 335-14-2-.01(7) prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and must be managed as hazardous waste unless, under the provisions of Rule 335-14-17-.02(1)(b), the hazardous waste/used oil mixture is determined not to be hazardous waste.

(d) Other applicable provisions. Used oil transporters who conduct the following activities are also subject to other applicable provisions of 335-14-17 as indicated in 335-14-17-.05(1)(d)1. through (d)5.

1. Transporters who generate used oil must also comply with Rule 335-14-17-.03.

2. Transporters who process or re-refine used oil, except as provided in Rule 335-14-17-.05(2), must also comply with rule 335-14-17-.06;

3. Transporters who burn off-specification used oil for energy recovery must also comply with rule 335-14-17-.07;

4. Transporters who direct shipments of off-specification used oil from their facility to a used oil burner or first claim 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) must also comply with Rule 335-14-17-.08; and

5. Transporters who dispose of used oil must also comply with Rule 335-14-17-.09.

(2) Restrictions on transporters who are not also processors or re-refiners.

(a) Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in 335-14-17-.05(2)(b), used oil transporters may not process used oil unless they also comply with the requirements for processors/re-refiners in Rule 335-14-17-.06.

(b) 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 unless they also comply with the processor/re-refiner requirements in Rule 335-14-17-.06.

(c) Transporters of used oil that is removed from oil bearing electrical transformers and turbines and filtered by the transporter or at a transfer facility prior to being returned to its original use are not subject to the processor/re-refiner requirements in Rule 335-14-17-.06.

(3) EPA Identification Number and Alabama Used Oil Transport Permit.

(a) A transporter must not transport used oil without having received an EPA Identification Number from the Administrator or the authorized State in which the transporter’s base of operations is located. If the transporter’s base of operations is located within the State of Alabama, such application shall be submitted to the Department.

(b) A transporter who has not received an EPA Identification Number may obtain one by applying to the Administrator or the authorized State in which the base of operations is located using EPA Form 8700-12 or the authorized State’s equivalent.

(c) Reserved.

(d) A non-rail transporter must not transport used oil without having received an Alabama Used Oil Transport Permit in compliance with Rules 335-14-8-.09 through 335-14-8-.13.

(e) Annual Submission of ADEM Form 8700-12, Notification of Regulated Waste Activity and Certifications of Waste Management. A used oil transporter whose base of operations is located in the State of Alabama must submit a correct and complete ADEM For 8700-12 (including all appropriate attachment pages and fees) reflecting current used oil activities to the Department annually. The Department must receive the ADEM Form 8700-12 (including all appropriate attachment pages and fees) no later than the 15th day of the specified month in the specified month schedule located at rule 335-14-1-.02(1)(a).

(f) The ADEM Form 8700-12, Notification of Regulated Waste Activity, is not complete without payment of all the appropriate fees specified in Chapter 335-1-6 of the ADEM Administrative Code.

(4) Financial Requirements. Any person, except for the State of Alabama and Federal government, proposing to transport used oil shall submit, with their application for an Alabama Used Oil Transport Permit, one of the following:

(a) A surety bond in which the applicant is the principal obligor and the Department is the obligee;

1. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U. S. Department of the Treasury or be a corporate surety licensed to do business in the State of Alabama; and

2. The wording of the surety bond must be identical to the following:

SURETY BOND

Date bond executed: _____

Effective date: Principal: _____

_____

_____

[legal name, business address and EPA identification number of applicant]

Type of organization: _____

[insert “individual”, “joint venture”, “partnership” or “corporation”]

State of incorporation: _____

_____

[name(s) and business address(es)]

Surety(ies): _____

Total penal sum of bond: $_____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Alabama Department of Environmental Management (hereinafter, "the Department"), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the Alabama Hazardous Wastes Management and Minimization Act of 1978, as amended (AHWMMA), to have a permit in order to transport used oil, and

Whereas said Principal is required by Code of Ala. 1975, §22-30-12(c)(4) to provide financial assurance for compliance with the AHWMMA, the regulations promulgated thereunder, the permit issued to the Principal and any orders issued to the Principal by the Department, and for damages to human health and the environment, including the costs of cleanups caused by spills.

Now, Therefore, the conditions of this obligation are such that if the Principal shall faithfully comply with the AHWMMA, the regulations promulgated thereunder, the permit issued to the Principal, any order(s) issued to the Principal by the Department, and correct any damages to human health or the environment, including the cleanup of spills as approved by the Department for the term of the permit issued to the Principal and the Surety(ies) gives notice of intent not to renew this Performance Bond not less than 90 days prior to the expiration of the permit issued to the Principal,

Or, if the Principal shall provide alternate financial assurance as specified in 335-14-17-.05(4)(b) or (c) of the Alabama Department of Environmental Management Administrative Code and obtain the Department's written approval of such assurance within 90 days after the date notice of cancellation is received by both the Principal and the Department from the Surety(ies) then this

obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Department that the Principal has been found in violation of the AHWMMA, the regulations promulgated thereunder, the permit issued to the Principal or any order(s) issued to the Principal for activities regulated pursuant to the AHWMMA, the Surety(ies) shall correct the violation, including the cost of any remedial action, and pay any penalties assessed by the Department against the Principal or shall within 15 days after notification by the Department, pay to the Department the amount designated as the total penal sum of the bond or such amount as remains if previous violations have been assessed against this bond.

The Surety(ies) hereby waive(s) notification of amendments to permits, applicable laws and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

In Witness Whereof, The Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in rule 335-14-17-.05(4)(a) of the Alabama Department of Environmental Management Administrative Code as such rule was constituted on the date this bond was executed.

PRINCIPAL

[Signature(s)] _____

_____

[Name(s)] _____

_____

(Title(s)] _____

_____

[Corporate seal]

CORPORATE SURETY(IES)

[Name and address] _____

_____

_____

State of incorporation: _____

Liability limit: $_____

[Signature(s)] _____

_____

[Name(s) and title(s)] _____

_____

[Corporate seal]

[For every co-surety provide the above required information, signature(s) and corporate seal.]

Bond premium: $_____

3. The amount of the surety bond for environmental restoration shall be established as follows:

(i) Transporters proposing to transport used oil shall be required to provide a surety bond in an amount equal to $5,000 per vehicle transporting such wastes to a maximum of $100,000 or proof of net worth as provided in 335-14-17-.05(4)(b);

(ii) If the assurance surety bond is drawn upon, the Department may require additional assurance from the permittee and if the permittee fails to provide the assurance as required, the Department may terminate the permit as set out in 335-14-8-.11(2).

(b) Evidence satisfactory to the Department that the person proposing to transport used oil has a net worth equal to ten times the value of the proposed surety bond. Such evidence shall be submitted in the form of a letter from the Chief Financial Officer of the applicant and shall be in a form identical to the following:

DEMONSTRATION OF NET WORTH

Letter From the Chief Financial Officer

(To demonstrate net worth as required by Code of Ala. 1975, §22-30-12(c)(4) in order to demonstrate financial responsibility for noncompliance with the Alabama Hazardous Wastes Management and Minimization Act of 1978, the regulations promulgated thereunder and any permits or orders issued to the applicant and to demonstrate financial responsibility for damages to human health and the environment, including the costs of cleanups, caused by spills. This demonstration may be used in conjunction with other allowable mechanisms in order to provide the required coverage.)

[Address to the Director, Alabama Department of Environmental Management, P.O. Box 301463, Montgomery, Alabama 36130-1463]

I am the chief financial officer of [applicant's name, address and EPA transporter identification number]. This letter is in support of the use of the demonstration of net worth to demonstrate financial responsibility as required by Code of Ala. 1975, §22-30-12(c)(4) and Rule 335-14-17-.05 of the Alabama Department of Environmental Management Administrative Code.

This applicant [insert “is required” or “is not required”] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this applicant ends on [month, day]. The figures for the following items marked with an asterisk are derived from a year-end financial statement(s) for the latest completed fiscal year, ended [date], prepared for the applicant by an independent auditor.

Net Worth

Amount of annual aggregate financial responsibility to be demonstrated . . .

$_____

*2. Total assets . . . . . $_____

*3. Total liabilities. . . . . $_____

*4. Net worth (line 2 minus line 3). . . . $_____

*5. If less than 90% of assets are located in the U.S. give total U.S. assets. . .

$_____

6. Is line 4 at least 10 times line 1?. . _____Yes _____No

I hereby certify that the wording of this letter is identical to that in Rule 335-14-17-.05(4)(b) of the Alabama Department of Environmental Management Administrative Code.

[Signature] _____

[Name] _____

[Title] _____

[Date] _____

(c) Proof of insurance in a minimum amount of $100,000 to cover damages to human health or the environment, exclusive of legal defense costs as defined in 335-14-1-.02. Such insurance may not include a pollution exclusion clause. Proof of insurance must be provided on a Certificate of Insurance form naming the Alabama Department of Environmental Management as the certificate holder and giving at least 30 days written Notice of Cancellation to the certificate holder. Nothing in 335-14-17-.05(4)(c) shall be construed to allow a transporter to operate in violation of the United States Department of Transportation rules and regulations governing financial assurance.

(d) A transporter must demonstrate to the satisfaction of the Department that the financial document submitted with their applications as required in 335-14-17-.05 is in force for the duration of the permit. The Department may request a permitted transporter at any time to demonstrate that financial assurance is in force for the duration of the used oil transporter permit.

(5) Used oil transportation.

(a) Deliveries. A used oil transporter must deliver all used oil received to:

1. Another used oil transporter, provided that the transporter has obtained an EPA identification number;

2. A used oil processing/re-refining facility who has obtained an EPA identification number;

3. An off-specification used oil burner facility who has obtained an EPA identification number; or

4. An on-specification used oil burner facility.

(b) DOT Requirements. Used oil transporters must comply with all applicable requirements of the U.S. Department of Transportation regulations in 49 CFR Parts 171 through 180. Persons transporting used oil that meets the definition of a

hazardous material in 49 CFR 171.8 must comply with all applicable regulations in 49 CFR 171 through 180.

(c) Used oil discharges.

1. In the event of a discharge of used oil during transportation, the transporter must take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).

2. If a discharge of used oil occurs during transportation and the Department or its designee acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, the Department or its designee may authorize the removal of the used oil by transporters who do not have EPA identification numbers.

3. An air, rail, highway, or water transporter who has discharged used oil must:

(i) Give notice, if required by 49 CFR 171.15, to the Alabama Emergency Management Agency (800/843-0699, 24 hours a day) and to the National Response Center (800/424-8802 or 202/267-2675, 24 hours a day); and

(ii) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590. A copy of such report shall be provided to the Land Division, Alabama Department of Environmental Management, PO Box 301463, Montgomery, AL (36130-1463), or hand delivered to 1400 Coliseum Boulevard, Montgomery, AL 36110-2059, not later than 14 days after any such discharge.

4. A water transporter who has discharged used oil must give notice as required by 33 CFR 153.203 and shall give notice to the Alabama Emergency Management Agency (800/843-0699, 24 hours a day) and to the National Response Center (800/424-8802 or 202/267-2675, 24 hours a day).

5. A transporter must clean up any discharge of used oil that occurs during transportation or take such action as may be required or approved by the Department or its designee so that the used oil discharge no longer presents a hazard to human health or the environment.

6. In addition to the reporting requirements of 335-14-17-.05(5)(c)3., a transporter must notify the Department of any discharge of greater than 25 gallons of used oil during transportation no later than 24 hours after any such discharge. The notification must include the following:

(i) The transporter's name and EPA identification number;

(ii) The date and time of the incident;

(iii) The location of the incident;

(iv) The type (refer to 335-14-17-.05(10)) and amount of materials released;

(v) A description of the sequence of events that led to the incident and the actions taken at the time it was discovered; and

(vi) A description of the actions that were taken to clean up and mitigate the effects of the release.

(6) Rebuttable presumption for used oil.

(a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Rule 335-14-17-.02(1)(b)1.(ii), the used oil transporter must determine whether the total halogen content of used oil being transported or stored at a transfer facility is above or below 1,000 ppm.

(b) The transporter must make this determination by:

1. Testing the used oil; or

2. Obtaining certification of the halogen content of the used oil from the used oil generator in light of the materials or processes used.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Rule 335-14-2-.04. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste [for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of Chapter 335-14-2].

1. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins if they are processed, through a tolling arrangement as

described in Rule 335-14-17-.03(6)(c), to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

2. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(7) Used oil storage at transfer facilities. Used oil transfer facilities are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of 335-14-17-.05. Used oil transporters are also subject to the Underground Storage Tank (Division 335-6, Volume II) standards for used oil stored in underground used oil tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of 335-14-17-.05.

(a) Applicability. 335-14-17-.05(7) applies to used oil transfer facilities. Used oil transfer facilities are transportation related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days are subject to regulation under Rule 335-14-17-.06.

(b) Maintenance and operation of facility. Used oil transfer facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water which could threaten human health or the environment.

(c) Storage units. Owners or operators of used oil transfer facilities may not store used oil in units other than used oil tanks, containers, or units subject to regulation under Chapters 335-14-5 or 335-14-6.

1. A container holding used oil must always be closed during storage, except when it is necessary to add or remove used oil.

2. The owner/operator must use appropriate controls and/or practices to prevent spills and overflows from used oil tanks. These include, but are not limited to:

(i) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(ii) Overflow controls for continuously fed used oil tanks (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standing used oil tank); and/or

(iii) Freeboard controls in open used oil tanks designed to maintain sufficient freeboard to prevent overfilling or overtopping by wave action, wind action, or precipitation.

(iv) Standard operating procedures requiring employees to check the oil level in a used oil tank by direct observation or remote sensing prior to placing oil in the used oil tank.

3. Special requirements for the management of ignitable used oil.

(i) Owner/operator must comply with 335-14-5-.02(8);

(ii) Containers holding ignitable used oil must be located at least 15 meters (50 feet) from the facility's property line.

(iii) The owner/operator of a facility where ignitable used oil is stored in a used oil tank must comply with the requirements for the maintenance of protective distances between the used oil management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code", (1977 or 1981), [incorporated by reference in Rule 335-14-1-.02(297)].

(d) A used oil transfer facility must be able to demonstrate the length of time that the used oil has been accumulated from the date it is received. The handler may make this demonstration by:

1. Labeling each used oil container with the earliest date that the used oil container was received;

2. Maintaining an inventory system on-site that identifies the date the used oil being accumulated as received;

3. Maintaining an inventory system on-site that identifies the earliest date that any used oil container in a group of used oil containers was received;

4. Placing the used oil container in a specific accumulation area and identifying the earliest date that any used oil containers in the area were received; or

5. Any other method which clearly demonstrates the length of time that the used oil has been accumulated on-site from the date received.

(e) Condition of units. Containers and aboveground used oil tanks used to store used oil at transfer facilities must be:

1. In good condition (no severe rusting, apparent structural defects or deterioration); and

2. Not leaking (no visible leaks).

(f) Secondary containment for containers. Containers used to store used oil at transfer facilities must be equipped with a secondary containment system.

1. The secondary containment system must consist of, at a minimum:

(i) Dikes, berms or retaining walls; and

(ii) A floor. The floor must cover the entire area within the dikes, berms, or retaining walls; or

(iii) An equivalent secondary containment system.

2. The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

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

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

5. Run-on, and the entrance of precipitation, into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in 335-14-17-.05(7)(g)4. to contain any run-on or precipitation which might enter the system; and

6. Spilled or leaked used oil 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.

(g) Secondary containment for existing aboveground used oil tanks. Existing aboveground used oil tanks used to store used oil at transfer facilities must be equipped with a secondary containment system.

1. The secondary containment system must consist of, at a minimum:

(i) Dikes, berms or retaining walls; and

(ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the used oil tank meet the ground; or

(iii) An equivalent secondary containment system.

2. The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

3. The containment system must be designed, constructed and operated to contain 100 percent of the capacity of the largest used oil tank within its boundary;

4. The containment system must be designed, constructed and operated to prevent run-on, or entrance of precipitation, into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or precipitation. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event.

5. The containment system must be sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked used oil and accumulated precipitation must be removed from the containment system in as timely a manner as necessary to prevent overflow of the system.

(h) Secondary containment for new aboveground used oil tanks. New aboveground used oil tanks used to store used oil at transfer facilities must be equipped with a secondary containment system.

1. The secondary containment system must consist of, at a minimum:

(i) Dikes, berms, or retaining walls; and

(ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

(iii) An equivalent secondary containment system.

2. The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

3. The containment system must be designed, constructed and operated to contain 100 percent of the capacity of the largest used oil tank within its boundary;

4. The containment system must be designed, constructed and operated to prevent run-on, or entrance of precipitation, into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or precipitation. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event.

5. The containment system must be sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked used oil and accumulated precipitation must be removed from the containment system in as timely a manner as necessary to prevent overflow of the system.

(i) Labels. Labels must be legible from a distance of at least 25 feet.

1. Containers and aboveground used oil tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words “Used Oil”.

2. Fill pipes used to transfer used oil into underground used oil storage tanks at transfer facilities must be labeled or marked clearly with the words “Used Oil”.

(j) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the corrective action requirements of Division 335-6, Volume 2 of the ADEM Administrative Code, which has occurred after the effective date of these Rules, the owner/operator of a transfer facility must perform the following cleanup steps:

1. Stop the release;

2. Contain the released used oil;

3. Clean up and manage properly the released used oil and other materials in accordance with all applicable Division 335-13 and 335-14 requirements; and

4. If necessary, repair or replace any leaking used oil storage containers or used oil tanks prior to returning them to service.

(k) Closure.

1. Aboveground used oil tanks. Owners and operators who store used oil in aboveground tanks must comply with the following requirements:

(i) At closure of the used oil tank system, the owner or operator must remove or decontaminate used oil residues in the tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under Chapter 335-14-2.

(ii) If the owner or operator cannot demonstrate that all of the soils can be practicably removed or decontaminated as required in 335-14-17-.05(7)(k)1.(i), then the owner or operator must close the used oil tank system and perform post-closure care requirements that apply to hazardous waste landfills under Rule 335-14-6-.14(11).

2. Containers. Owners and operators who store used oil in containers must comply with the following requirements:

(i) At closure, containers holding used oil or residues of used oil must be removed from the site;

(ii) The owner or operator must remove or decontaminate used oil residues, contaminated containment systems components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under 335-14-2.

(8) Tracking.

(a) Acceptance. Used oil transporters must keep a record of each used oil shipment accepted for transport. Records for each shipment must include:

1. The name and address of the used oil generator, used oil transporter, or used oil processor/re-refiner who provided the used oil for transport;

2. The EPA identification number (if applicable) of the used oil generator, used oil transporter, or used oil processor/re-refiner who provided the used oil for transport;

3. The quantity of used oil accepted;

4. The date of acceptance; and

5.(i) Except as provided in 335-14-17-.05(8)(a)5.(ii), the signature, dated upon receipt of the used oil, of a representative of the used oil generator, used oil transporter, or used oil processor/re-refiner who provided the used oil for transport.

(ii) Intermediate rail used oil transporters are not required to sign the record of acceptance.

(b) Deliveries. Used oil transporters must keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, used oil processor/ re-refiner, or disposal facility. Records of each delivery must include:

1. The name and address of the receiving facility or used oil transporter;

2. The EPA identification number of the receiving facility or used oil transporter;

3. The quantity of used oil delivered;

4. The date of delivery;

5.(i) Except as provided in 335-14-17-.05(8)(b)5.(ii), the signature, dated upon receipt of the used oil, of a representative of the receiving facility or used oil transporter.

(ii) Intermediate rail used oil transporters are not required to sign the record of delivery.

(c) Exports of used oil. Used oil transporters must maintain the records described in 335-14-17-.05(8)(b)1. through (b)4. for each shipment of used oil exported to any foreign country.

(d) Residues from the Storage or Transport of Used Oil. Used oil transporters must keep a record of each shipment of residues resulting from the storage or transport of used oil

that is delivered or offered to another transporter or facility. Records of each shipment must include:

1. The name and address of the receiving facility or transporter;

2. The EPA identification number of the receiving facility or transporter, if applicable;

3. The type (refer to 335-14-17-.05(10)) and quantity of residue delivered or offered;

4. The date of delivery or acceptance;

5. Except as provided in 335-14-17-.05(8)(d), the signature, dated upon receipt of the residue, of a representative of the receiving facility or transporter. (Note: Intermediate rail transporters are not required to sign the record of delivery/acceptance)

(9) Recordkeeping.

(a) Alabama Used Oil Transporter Permit. A transporter of used oil must maintain a copy of the current used oil transporter permit with each vehicle actively transporting used oil.

(b) Contingency Plan. A transporter of used oil must maintain a copy of the contingency plan required by Rule 335-14-8-.09(4)(g) with each vehicle actively transporting used oil.

(c) Rebuttable Persumption. Records of analyses conducted or information used to comply with 335-14-17-.05(6)(a), (b), and (c) must be maintained by the used oil transporter for at least 3 years.

(d) Tracking. The records described in 335-14-17-.05(8)(a) through (d), must be maintained for at least 3 years.

(10) Management of residues. Used oil transporters who generate residues from the storage or transport of used oil must manage the residues as specified in Rule 335-14-17-.02(1)(e).

(11) Reserved.

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335-14-17-.06 Standards For Used Oil Processors And Re-Refiners.

(1) Applicability.

(a) The requirements of 335-14-17-.06(1) apply to owners and operators of facilities that process used oil. 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. The requirements of 335-14-17-.06(1) do not apply to:

1. Used oil transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in Rule 335-14-17-.05(2); or

2. Burners that conduct incidental used oil processing operations that occur during the normal course of used oil management prior to burning as provided in rule 335-14-17-.07(2)(b)1.

(b) Other applicable provisions. Used oil processors/re-refiners who conduct the following activities are also subject to the requirements of other applicable provisions of 335-14-17 as indicated in 335-14-17-.06(1)(b)1. through (b)5.

1. Used oil processors/re-refiners who generate used oil must also comply with rule 335-14-17-.03;

2. Used oil processors/re-refiners who transport used oil must also comply with rule 335-14-17-.05;

3. Except as provided in 335-14-17-.06(1)(b)3.(i) and (b)3.(ii), used oil processors/re-refiners who burn off-specification used oil for energy recovery must also comply with rule 335-14-17-.07. Used oil processors/re-refiners burning used oil for energy recovery under the following conditions are not subject to rule 335-14-17-.07;

(i) The used oil is burned in an on-site space heater that meets the requirements of rule 335-14-17-.03(5); or

(ii) The used oil is burned for purposes of used oil processing, which is considering burning incidentally to used oil processing;

4. Used oil processors/re-refiners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim 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) must also comply with rule 335-14-17-.08; and

5. Used oil processors/re-refiners who dispose of used oil also must comply with rule 335-14-17-.09.

(2) Notification.

(a) Identification numbers. Used oil processors and re-refiners must obtain an EPA Identification Number within 30 days of the effective date of these Rules or prior to processing/re-refining used oil, whichever is later.

(b) Mechanics of notification. A used oil processor or re-refiner must submit a correct and complete ADEM Form 8700-12 (including all appropriate attachment pages and fees) reflecting current used oil activities to the Department annually. The Department must receive the ADEM Form 8700-12 (including all appropriate attachment pages and fees) no later than the 15th day of the specified month in the specified month schedule located at rule 335-14-1-.02(1)(a).

(c) The ADEM Form 8700-12, Notification of Regulated Waste Activity, is not complete without payment of all the appropriate fees specified in Chapter 335-1-6 of the ADEM Administrative Code.

(3) General facility standards.

(a) Preparedness and prevention. Owners and operators of used oil processing and re-refining facilities must comply with the following requirements:

1. Maintenance and operation of facility. Facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water which could threaten human health or the environment.

2. Required equipment. All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in 335-14-17-.06(3)(a)2.(i) through (iv):

(i) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(ii) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local enforcement, fire departments, or ADEM Field Operations Division or local emergency response teams;

(iii) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment and decontamination equipment; and

(iv) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

3. Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

4. Access to communications or alarm system.

(i) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in 335-14-17-.06(3)(a)2.

(ii) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in 335-14-17-.06(3)(a)2.

5. Required aisle space. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

6. Arrangements with local authorities.

(i) The owner or operator must attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

(I) Arrangements to familiarize local law enforcement, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(II) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(III) Agreements with ADEM Field Operations Division emergency response teams, emergency response contractors, and equipment suppliers; and

(IV) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

(ii) Where State of Alabama or local authorities decline to enter into such arrangements, the owner or

operator must document the refusal in the operating record.

(b) Contingency plan and emergency procedures. Owners and operators of used oil processing and re-refining facilities must comply with the following requirements:

1. Purpose and implementation of contingency plan.

(i) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.

(ii) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of used oil which could threaten human health or the environment.

2. Content of contingency plan.

(i) The contingency plan must describe the actions facility personnel must take to comply with 335-14-17-.06(3)(b)1. and 6. in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility.

(ii) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of 335-14-17.

(iii) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and ADEM Field Operations Division and local emergency response teams to coordinate emergency services, pursuant to 335-14-17-.06(3)(a)6.

(iv) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator [see 335-14-17-.06(3)(b)5.], and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

(v) The plan must include a list of all emergency equipment at the facility [such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment], where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(vi) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires).

3. Copies of contingency plan. A copy of the contingency plan and all revisions to the plan must be:

(i) Maintained at the facility; and

(ii) Submitted to all local law enforcement, fire departments, hospitals, ADEM Field Operations Division and local emergency response teams that may be called upon to provide emergency services. A record of this submittal should be kept in the operating record of the facility.

4. Amendment of contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever:

(i) Applicable regulations are revised;

(ii) The plan fails in an emergency;

(iii) The facility changes-in its design, construction, operation, maintenance, or other circumstances-in a way that materially increases the potential fires, explosions, or releases of used oil, or changes the response necessary in an emergency;

(iv) The list of emergency coordinators changes; or

(v) The list of emergency equipment changes.

5. Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency

response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

Guidance: The emergency coordinator's responsibilities are more fully spelled out in 335-14-17-.06(3)(b)6. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility.

6. Emergency procedures.

(i) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately:

(I) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(II) Notify appropriate State of Alabama or local agencies with designated response roles if their help is needed.

(ii) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. He may do this by observation or review of facility records or manifests and, if necessary, by chemical analyses.

(iii) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any surface water run-offs contaminated from water or chemical agents used to control fire and heat-induced explosions).

(iv) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment,

outside the facility, he must report his findings as follows:

(I) If his assessment indicated that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and

(II) He must immediately notify:

1. Either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under Part 1510 of 40 CFR), or the National Response Center [using their 24-hour toll free number 800/424-8802 or 202/267-2675];

2. The Department [334/271-7700 between 8:00 a.m. and 5:00 p.m., Monday through Friday]; and

3. The Alabama Department of Public Safety [334/242-4378, 24 hours a day].

(III) The report required by 335-14-17-.06(3)(b)6.(iv)(II) must include:

1. Name and telephone number of reporter;

2. Name and address of facility;

3. Time and type of incident (e.g., release, fire);

4. Name and quantity of material(s) involved, to the extent known;

5. The extent of injuries, if any; and

6. The possible hazards to human health, or the environment, outside the facility.

(v) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

(vi) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(vii) Immediately after an emergency, the emergency coordinator must provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(viii) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(I) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and

(II) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(III) The owner or operator must notify the Department and other appropriate State of Alabama and local authorities that the facility is in compliance with 335-14-17-.06(3)(b)6.(viii)(I) and (II) before operations are resumed in the affected area(s) of the facility.

(ix) The owner or operator must note in the operating record the time, date and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to the Department. The report must include:

(I) Name, address, and telephone number of the owner or operator;

(II) Name, address, and telephone number of the facility;

(III) Date, time, and type of incident (e.g., fire, explosion);

(IV) Name and quantity of material(s) involved;

(V) The extent of injuries, if any;

(VI) An assessment of actual or potential hazards to human health or the environment, where this is applicable;

(VII) Estimated quantity and disposition of recovered material that resulted from the incident.

(4) Rebuttable presumption for used oil.

(a) To ensure that used oil managed at a used oil processing/ re-refining facility is not hazardous waste under the rebuttable presumption of Rule 335-14-17-.02(1)(b)1.(ii), the owner or operator of a used oil processing/re-refining facility must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

(b) The owner or operator must make this determination by:

1. Testing the used oil; or

2. Obtaining certification of the halogen content of the used oil from the generator in light of the materials or processes used.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in rule 335-14-2-.04. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste [for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 335-14-2-Appendix VIII].

1. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oil/fluids. The presumption does apply to metalworking oil/fluids if such oils/fluids are recycled in any other manner, or disposed.

2. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(5) Used oil management. Used oil processors/ re-refiners are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements

of 335-14-17-.06. Used oil processors/ re-refiners are also subject to the Underground Storage Tank (Division 335-6, Volume 2) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of 335-14-17-.06.

(a) Management units. Used oil processors/re-refiners may not store used oil in units other than used oil tanks, containers, or units subject to regulation under Chapters 335-14-5 or 335-14-6.

1. A container holding used oil must always be closed during storage, except when it is necessary to add or remove used oil.

2. The owner/operator must use appropriate controls and/ or practices to prevent spills and overflows from used oil tanks. These include, but are not limited to:

(i) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(ii) Overflow controls for continuously fed used oil tanks (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standing used oil tank);

(iii) Freeboard controls in open used oil tanks designed to maintain sufficient freeboard to prevent overfilling or overtopping by wave action, wind action, or precipitation; and/or

(iv) Standard operating procedures requiring employees to check the oil level in a used oil tank by direct observation or remote sensing prior to placing oil in the tank.

3. Special requirements for the management of ignitable used oil.

(i) Owner/operator must comply with 335-14-5-.02(8);

(ii) Containers holding ignitable used oil must be located at least 15 meters (50 feet) from the facility’s property line.

(iii) The owner/operator of a facility where ignitable used oil is stored or treated in a used oil tank must comply with the requirements for the maintenance of protective distances between the used oil management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2-1 through 2-6 of

the National Fire Protection Association's "Flammable and Combustible Liquids Code", (1977 or 1981), [incorporated by reference in rule 335-14-1-.02(2)].

(b) Conditions of units. Containers and aboveground used oil tanks used to store or process used oil at processing and re-refining facilities must be:

1. In good condition (no severe rusting, apparent structural defects or deterioration); and

2. Not leaking (no visible leaks).

(c) Secondary containment for containers. Containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

1. The secondary containment system must consist of, at a minimum:

(i) Dikes, berms or retaining walls; and

(ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

(iii) An equivalent secondary containment system.

2. The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

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

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

5. Run-on, and the entrance of precipitation, into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in 335-14-17-.06(5)(d)4. to contain any run-on and precipitation which might enter the system; and

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

(d) Secondary containment for existing aboveground used oil tanks. Existing aboveground used oil tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

1. The secondary containment system must consist of, at a minimum:

(i) Dikes, berms, or retaining walls; and

(ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the used oil tank meet the ground; or

(iii) An equivalent secondary containment system.

2. The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

3. The containment system must be designed, constructed and operated to contain 100 percent of the capacity of the largest used oil tank within its boundary;

4. The containment system must be designed, constructed and operated to prevent run-on, or entrance of precipitation, into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or precipitation. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour, rainfall event.

5. The containment system must be sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked used oil and accumulated precipitation must be removed from the containment system in as timely a manner as necessary to prevent overflow of the system.

(e) Secondary containment for new aboveground used oil tanks. New aboveground used oil tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

1. The secondary containment system must consist of, at a minimum:

(i) Dike, berms or retaining walls; and

(ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

(iii) An equivalent secondary containment system.

2. The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

3. The containment system must be designed, constructed and operated to contain 100 percent of the capacity of the largest used oil tank within its boundary;

4. The containment system must be designed, constructed and operated to prevent run-on, or entrance of precipitation, into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or precipitation. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event.

5. The containment system must be sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked used oil and accumulated precipitation must be removed from the containment system in as timely a manner as necessary to prevent overflow of the system.

(f) Labels. Labels must be legible from a distance of at least 25 feet.

1. Containers and aboveground used oil tanks used to store or process used oil at processing and re-refining facilities must be labeled or marked clearly with the words “Used Oil”.

2. Fill pipes used to transfer used oil into underground used oil storage tanks at used oil processing and re-refining facilities must be labeled or marked clearly with the words “Used Oil”.

(g) Response to releases. Upon detection of a release of used oil to the environment not subject to the requirements of Division 335-6, Volume 2 of the ADEM Administrative Code which has occurred after the effective date of these Rules, an owner/operator must perform the following cleanup steps:

1. Stop the release;

2. Contain the released used oil;

3. Clean up and manage properly both the released used oil and other materials in accordance with all applicable Division 335-13 and 335-14 requirements; and

4. If necessary, repair or replace any leaking used oil storage containers or used oil tanks prior to returning them to service.

(h) Closure.

1. Aboveground used oil tanks. Owners and operators who store or process used oil in aboveground used oil tanks must comply with the following requirements:

(i) At closure of used oil tank system, the owner or operator must remove or decontaminate used oil residues in used oil tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under Chapter 335-14-2.

(ii) If the owner or operator can not demonstrate that all contaminated soils can be practicably removed or decontaminated as required in 335-14-17-.06(5)(h)1.(i), then the owner or operator must close the used oil tank system and perform post-closure care requirements that apply to hazardous waste landfills rule 335-14-6-.14(11).

2. Containers. Owners and operators who store used oil in containers must comply with the following requirements:

(i) At closure, containers holding used oil or residues of used oil must be removed from the site;

(ii) The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under Chapter 335-14-2.

(6) Analysis plan. Owners or operators of used oil processing and re-refining facilities must develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of Rule 335-14-17-.06(4) and, if

applicable, rule 335-14-17-.08(3). The owner or operator must keep the plan at the facility.

(a) Rebuttable presumption for used oil in rule 335-14-17-.06(4). At a minimum, the plan must specify the following:

1. Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination.

2. If sample analyses are used to make this determination:

(i) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(I) One of the sampling methods in Chapter 335-14-2-Appendix I; or

(II) A method shown to be equivalent under rule 335-14-1-.03(1);

(ii) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

(iii) The methods used to analyze used oil for the parameters specified in rule 335-14-17-.06(4); and

3. The type of information that will be used to determine the halogen content of the used oil.

(b) On-specification used oil fuel in Rule 335-14-17-.08(3). At a minimum, the plan must specify the following if Rule 335-14-17-.08(3) is applicable:

1. Whether sample analyses or other information will be used to make this determination;

2. If sample analyses are used to make this determination:

(i) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(I) One of the sampling methods in Chapter 335-14-2-Appendix I; or

(II) A method shown to be equivalent under rule 335-14-1-.03(1).

(ii) Whether used oil will be sampled and analyzed prior to or after any used oil processing/re-refining;

(iii) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

(iv) The methods used to analyze used oil for the parameters specified in Rule 335-14-17-.08(3); and

3. The type of information that will be used to make the on-specification used oil fuel determination.

(7) Tracking.

(a) Acceptance. Used oil processors/re-refiners must keep a record of each used oil shipment accepted for used oil processing/re-refining. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

1. The name and address of the transporter who delivered the used oil to the processor/re-refiner;

2. The name and address of the generator or processor/re-refiner from whom the used oil was sent for used oil processing/re-refining:

3. The EPA identification number of the transporter who delivered the used oil to the processor/re-refiner;

4. The EPA identification number (if applicable) of the generator or processor/re-refiner from whom the used oil was sent for used oil processing/re-refining;

5. The quantity of used oil accepted; and

6. The date of acceptance.

(b) Delivery. Used oil processor/re-refiners must keep a record of each shipment of used oil that is shipped to a used oil burner, processor/re-refiner, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

1. The name and address of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

2. The name and address of the burner, processor/re-refiner or disposal facility who will receive the used oil;

3. The EPA identification number of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

4. The EPA identification number of the burner, processor/re-refiner, or disposal facility who will receive the used oil;

5. The quantity of used oil shipped; and

6. The date of shipment.

(c) Record retention. The records described in 335-14-17-.06(7)(a) and (b) must be maintained for at least three (3) years.

(8) Operating record and reporting.

(a) Operating record.

1. The owner or operator must keep a written operating record at the facility.

2. The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility;

(i) Records and results of used oil analyses performed as described in the analysis plan required under 335-14-17-.06(6); and

(ii) Documentation of information used to make the determinations described in the analysis plan required under 335-14-17-.06(6); and

(iii) Summary reports and details of all incidents that require implementation of the contingency plan as specified in 335-14-17-.06(3)(b)6.(ix).

(b) Reporting. A used oil processor/re-refiner must report to the Department, in the form of a letter, on a biennial basis (by March 1 of each even numbered year), the following information concerning used oil activities during the previous calendar year;

1. The EPA identification number, name, and address of the processor/re-refiner;

2. The calendar year covered by the report; and

3. The quantities of used oil accepted for used oil processing/re-refining and the manner in which the used oil is processed/re-refined, including the specific processes employed.

(9) Off-site shipment of used oil. Used oil processors/re-refiners who initiate shipments of used oil off-site must ship the used oil using a used oil transporter who has obtained an EPA identification number.

(10) Management of residues. Owners and operators who generate residues from the storage, used oil processing, or re-refining of used oil must manage the residues as specified in rule 335-14-17-.02(1)(e).

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335-14-17-.07 Standards For Used Oil Burners Who Burn Off-Specification Used Oil For Energy Recovery.

(1) General.

(a) The requirements of 335-14-17-.07 apply to used oil burners except as specified in 335-14-17-.07(1)(a)1. and (a)2.. A used oil burner is 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). Facilities burning used oil for energy recovery under the following conditions are not subject to 335-14-17-.07:

1. The used oil is burned by the generator in an on-site space heater under the provisions of Rule 335-14-17-.03(5); or

2. The used oil is burned by a processor/re-refiner for purposes of processing used oil, which is considered burning incidentally to used oil processing.

(b) Other applicable provisions. Used oil burners who conduct the following activities are also subject to the requirements of other applicable provisions of 335-14-17-.07 as indicated below:

1. Burners who generate used oil must also comply with Rule 335-14-17-.03;

2. Burners who transport used oil must also comply with Rule 335-14-17-.05;

3. Except as provided in Rule 335-14-17-.07(2)(b), burners who process or re-refine used oil must also comply with Rule 335-14-17-.06;

4. Burners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim 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) must also comply with Rule 335-14-17-.08; and

5. Burners who dispose of used oil must comply with Rule 335-14-17-.09.

(c) Specification fuel. 335-14-17-.07 does not apply to persons burning used oil that meets the used oil fuel specification of Rule 335-14-17-.02(2), provided that the burner complies with the requirements of Rule 335-14-17-.08.

(2) Restrictions on burning.

(a) Off-specification used oil fuel may be burned for energy recovery in only the following devices:

1. Industrial furnaces identified in Rule 335-14-1-.02.

2. Boilers, as defined in Rule 335-14-1-.02, that are identified as follows:

(i) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(ii) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or

(iii) Used oil-fired space heaters provided that the burner meets the provisions of Rule 335-14-17-.03(5); or

3. Hazardous waste incinerators subject to regulation under Rules 335-14-5-.15 or 335-14-6-.15.

(b)1. With exception of 335-14-17-.07(2)(b)2., used oil burners may not process used oil unless they also comply with the requirements of Rule 335-14-17-.06.

2. Used oil burners may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but may not aggregate for purposes of producing on-specification used oil.

(3) Notification.

(a) Identification numbers. Used oil burners must obtain an EPA identification number within 30 days of the effective date of these Rules or prior to the burning of used oil, whichever is later.

(b) Mechanics of notification. Used oil burners must submit a correct and complete ADEM Form 8700-12 (including all appropriate attachment pages and fees) reflecting current used oil activities to the Department annually. The Department must receive the ADEM Form 8700-12 (including all appropriate attachment pages and fees) no later than the 15th day of the specified month in the specified month schedule located at rule 335-14-1-.02(1)(a).

(c) The ADEM Form 8700-12, Notification of Regulated Waste Activity, is not complete without payment of all the appropriate fees specified in Chapter 335-1-6 of the ADEM Administrative Code.

(4) Rebuttable presumption for used oil.

(a) To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of Rule 335-14-17-.02(1)(b)1.(ii), a used oil burner must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

(b) The used oil burner must determine if the used oil contains above or below 1,000 ppm total halogens by:

1. Testing the used oil;

2. Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or

3. If the used oil has been received from a processor/re-refiner subject to regulation under Rule 335-14-17-.06, using information provided by the processor/re-refiner.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Rule 335-14-2-.04. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste [for example, showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 335-14-2-Appendix VIII].

1. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Rule 335-14-17-.03(6)(c), to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

2. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(d) Record retention. Records of analyses conducted or information used to comply with 335-14-17-.07(4)(a), (b), and (c) must be maintained by the burner for at least 3 years.

(5) Used oil storage. Used oil burners are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of 335-14-17-.07. Used oil burners are also subject to the Underground Storage Tank (Division 335-6, Volume 2) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of used oil hazardous waste, in addition to the requirements of 335-14-17-.07.

(a) Storage units. Used oil burners may not store used oil in units other than used oil tanks, containers, or units subject to regulation under Chapters 335-14-5 and 335-14-6.

1. A container holding used oil must always be closed during storage, except when it is necessary to add or remove used oil.

2. The owner/operator must use appropriate controls and/or practices to prevent spills and overflows from used oil tanks. These include, but are not limited to:

(i) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(ii) Overflow controls for continuously fed used oil tanks (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standing used oil tank);

(iii) Freeboard controls in open used oil tanks designed to maintain sufficient freeboard to prevent overfilling or overtopping by wave action, wind action, or precipitation; and/or

(iv) Standard operating procedures requiring employees to check the oil level in a used oil tank by direct observation or remote sensing prior to placing oil in the used oil tank.

(b) Condition of units. Containers and aboveground used oil tanks used to store oil at burner facilities must be:

1. In good condition (no severe rusting, apparent structural defects or deterioration); and

2. Not leaking (no visible leaks).

(c) Secondary containment for containers. Containers used to store used oil at burner facilities must be equipped with a secondary containment system.

1. The secondary containment system must consist of, at a minimum:

(i) Dikes, berms or retaining walls; and

(ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

(iii) An equivalent secondary containment system.

2. The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

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

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

5. Run-on, and the entrance of precipitation, into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in 335-14-17-.07(5)(d)4. to contain any run-on and precipitation which might enter the system; and

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

(d) Secondary containment for existing aboveground used oil tanks. Existing aboveground used oil tanks used to store used oil burner facilities must be equipped with a secondary containment system.

1. The secondary containment system must consist of, at a minimum:

(i) Dikes, berms or retaining walls; and

(ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the used oil tank meet the ground; or

(iii) An equivalent secondary containment system.

2. The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

3. The containment system must be designed, constructed and operated to contain 100 percent of the capacity of the largest used oil tank within its boundary;

4. The containment system must be designed, constructed and operated to prevent run-on, or entrance of precipitation, into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or precipitation. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event.

5. The containment system must be sloped or otherwise designed or operated to drain and remove liquids

resulting from leaks, spills, or precipitation. Spilled or leaked used oil and accumulated precipitation must be removed from the containment system in as timely a manner as necessary to prevent overflow of the system.

(e) Secondary containment for new aboveground used oil tanks. New aboveground used oil tanks used to store used oil at burner facilities must be equipped with a secondary containment system.

1. The secondary containment system must consist of, at a minimum:

(i) Dikes, berms or retaining walls; and

(ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

(iii) An equivalent-secondary containment system.

2. The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

3. The containment system must be designed, constructed and operated to contain 100 percent of the capacity of the largest used oil tank within its boundary;

4. The containment system must be designed, constructed and operated to prevent run-on, or entrance of precipitation, into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or precipitation. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event.

5. The containment system must be sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked used oil and accumulated precipitation must be removed from the containment system in as timely a manner as necessary to prevent overflow of the system.

(f) Labels. Labels must be legible from a distance of at least 25 feet.

1. Containers and aboveground used oil tanks used to store used oil at burner facilities must be labeled or marked clearly with the words “Used Oil”.

2. Fill pipes used to transfer used oil into underground used oil storage tanks at burner facilities must be labeled or marked clearly with the words "Used Oil".

(g) Response to releases. Upon detection of a release of used oil to the environment not subject to the requirements of Division 335-6, Volume 2 of the ADEM Administrative Code which has occurred after the effective date of these Rules, a burner must perform the following cleanup steps:

1. Stop the release;

2. Contain the released used oil;

3. Clean up and manage properly both the released used oil and other materials in accordance with all applicable Division 335-13 and 335-14 requirements; and

4. If necessary, repair or replace any leaking used oil storage containers or used oil tanks prior to returning them to service.

(6) Tracking.

(a) Acceptance. Used oil burners must keep a record of each used oil shipment accepted for burning. These records may take the form of a log, invoice, manifest bill of lading, or other shipping documents. Records for each shipment must include the following information:

1. The name and address of the transporter who delivered the used oil to the burner;

2. The name and address of the generator or processor/re-refiner from whom the used oil was sent to the burner;

3. The EPA identification number of the transporter who delivered the used oil to the burner;

4. The EPA identification number (if applicable) of the generator or processor/re-refiner from whom the used oil was sent to the burner;

5. The quantity of used oil accepted; and

6. The date of acceptance.

(b) Record retention. The records described in 335-14-17-.07(6)(a) must be maintained for at least three (3) years.

(7) Notices.

(a) Certification. Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor/re-refiner, the burner must provide to the generator, transporter, or processor/re-refiner a one time written and signed notice certifying that:

1. The burner has notified the Department stating the location and general description of his oil used management activities; and

2. The burner will burn the used oil only in an industrial furnace or boiler identified in Rule 335-14-17-.07(2)(a).

(b) Certification retention. The certification described in 335-14-17-.07(7)(a) must be maintained for three (3) years from the date the burner last receives shipment of off-specification used oil from that generator, transporter, or processor/re-refiner.

(8) Management of residues. Burners who generate residues from the storage or burning of used oil must manage the residues as specified in Rule 335-14-17-.02(1)(e).

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335-14-17-.08 Standards For Used Oil Fuel Marketers.

(1) Applicability.

(a) Any person who conducts either of the following activities is subject to the requirements of 335-14-17-.08:

1. Directs a shipment of off-specification used oil from their facility to a used oil burner; or

2. 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).

(b) The following persons are not marketers subject to 335-14-17-.08:

1. Used oil generators, and transporters who transport used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from their facility to a used oil burner. However, processors/re-refiners who burn some used oil fuel for purposes of used oil processing are considered to be burning incidentally to processing. Thus, generators and transporters who direct shipments of off-specification used oil to processor/re-refiners who incidentally burn used oil are not marketers subject to 335-14-17-.08;

2. Persons who direct shipments of on-specification used oil and who are not the first person to claim the oil meets the used oil fuel specifications of Rule 335-14-17-.02(2).

(c) Any person subject to the requirements of 335-14-17-.08 must also comply with one of the following:

1. Rule 335-14-17-.03--Standards for Used Oil Generators;

2. Rule 335-14-17-.05--Standards for Used Oil Transporters and Transfer Facilities;

3. Rule 335-14-17-.06--Standards for Used Oil Processors and Re-refiners; or

4. Rule 335-14-17-.07--Standards for Used Oil Burners who Burn Off-Specification Used Oil for Energy Recovery.

(2) Prohibitions. A used oil fuel marketer may initiate a shipment of off-specification used oil only to a used oil burner who:

(a) Has an EPA identification number; and

(b) Burns the used oil in an industrial furnace or boiler identified in Rule 335-14-17-.07(2)(a).

(3) On-Specification used oil fuel.

(a) Analysis of used oil fuel. A generator, transporter, processor/re-refiner, or burner may determine that used oil that is to be burned for energy recovery meets the fuel specifications of Rule 335-14-17-.02(2) by performing analyses or other information documenting that the used oil fuel meets the specifications.

(b) Record retention. A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to

be burned for energy recovery meets the specifications for used oil fuel under Rule 335-14-17-.02(2), must keep copies of analyses of the used oil (or other information used to make the determination) for three years.

(4) Notification.

(a) A used oil fuel marketer subject to the requirements of 335-14-17-.08 must obtain an EPA identification number within 30 days of the effective date of these Rules or prior to marketing used oil fuel, whichever is later.

(b) A marketer who has not received an EPA identification number may obtain one by notifying the Department of their used oil activity by submitting a completed ADEM Form 8700-12, Notification of Regulated Waste Activity. (To obtain this form, call the Department's Land Division at (334) 271-7730.)

(5) Tracking.

(a) Off-specification used oil delivery. Any used oil marketer who directs a shipment of off-specification used oil to a burner must keep a record of each shipment of used oil to a used oil burner to which it delivers the used oil. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

1. The name and address of the transporter who delivers the used oil to the burner;

2. The name and address of the burner who will receive the used oil;

3. The EPA identification number of the transporter who delivers the used oil to the burner;

4. The EPA identification number of the burner;

5. The quantity of used oil shipped; and

6. The date of shipment.

(b) On-specification used oil delivery. A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the fuel specifications under Rule 335-14-17-.02(2) must keep a record of each shipment of used oil to the facility. Records for each shipment must include the following information:

1. The name and address of the facility receiving the shipment;

2. The quantity of used oil fuel delivered;

3. The date of shipment or delivery; and

4. A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under Rule 335-14-17-.08(3)(a).

(c) Burners of on-specification used oil produced on-site. A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned on-site for energy recovery meets the fuel specifications under Rule 335-14-17-.02(2) must keep a record of the amount of used oil produced and used for this purpose. The record must include the following information:

1. The quantity of used oil declared on-specification and burned for energy recovery; and

2. A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under Rule 335-14-17-.08(3)(a).

(d) Records retention: The records described in 335-14-17-.08(5)(a) and (b) must be maintained for at least three (3) years.

(6) Notices.

(a) Certification. Before a used oil generator, transporter, or processor/re-refiner directs the first shipment of off-specification used oil fuel to a burner, he must obtain a one-time written and signed notice from the burner certifying that:

1. The burner has notified the Department stating the location and general description of used oil management activities; and

2. The burner will burn off-specification used oil only in an industrial furnace or boiler identified in Rule 335-14-17-.07(2)(a).

(b) Certification retention. The certification described in 335-14-17-.08(6)(a) must be maintained for three (3) years from the date the last shipment of off-specification used oil is shipped to the burner.

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335-14-17-.09 Standards For Disposal Of Used Oil.

(1) Applicability. The requirements of 335-14-17-.09 apply to all used oils that cannot be recycled and are therefore being disposed.

(2) Disposal.

(a) Disposal of hazardous used oils. Used oils that are identified as a hazardous waste and cannot be recycled in accordance with 335-14-17 must be managed in accordance with the hazardous waste management requirements of Chapters 335-14-1 through 335-14-9.

(b) Disposal of nonhazardous used oils. Used oils that are not hazardous wastes and cannot be recycled under 335-14-17 must be disposed in accordance with the requirements of ADEM's Administrative Code, Division 335-13 (Solid Waste).

(3) Reserved.

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