

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-14-17-.05
Rule Title: Standards for Used Oil Transporter and Transfer Facilities

 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

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

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

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

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

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? NO

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

Does the proposed rule have an economic impact? NO

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

Certification of Authorized Official

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

Signature of certifying officer Maury Elliott

Date October 19, 2018

(DATE FILED)
(STAMP)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Environmental Management

RULE NO. & TITLE: 335-14-1-.01 General
335-14-1-.02 Definitions and References
335-14-1-.03 Rulemaking Petitions
335-14-2-.01 General
335-14-2-.05 Exclusions/Exemptions
335-14-2-.08 Financial Requirements for Management of Excluded Hazardous
Secondary Materials
335-14-2-.13 Emergency Preparedness and Response for Management of
Excluded Hazardous Secondary Materials
335-14-3-.01 General
335-14-3-.02 Manifest Requirements Applicable to Small and Large Quantity
Generators
335-14-3-.09 Transboundary Movements of Hazardous Waste for Recovery or
Disposal
335-14-3 Appendix I Uniform Hazardous Waste Manifest and Instructions
(EPA Forms 8700 22 and 8700 22A and their Instructions)
335-14-4-.02 Compliance with the Manifest System and Recordkeeping
335-14-5-.05 Manifest System, Recordkeeping and Reporting
335-14-5-.29 Subpart CC Air Emission Standards For Tanks, Surface
Impoundments, And Containers
335-14-6-.05 Manifest System, Recordkeeping and Reporting
335-14-6-.29 Subpart CC Air Emission Standards For Tanks, Surface
Impoundments, And Containers
335-14-17-.05 Standards for Used Oil Transporter and Transfer Facilities
335-14-17-.06 Standard for Used Oil processors and Re-refiners

INTENDED ACTION: Revise

SUBSTANCE OF PROPOSED ACTION: Revisions to the ADEM Admin. Code r. 335-14 are being proposed to adopt three newly codified and revised federal rules promulgated by EPA. The first of these is the Confidentiality Determinations for Hazardous Waste Export and Import Documents Rule, 82 FR 60894, (hereinafter "the Confidentiality Rule") finalized on December 26, 2017. This rule amends existing regulations regarding the export and import of hazardous wastes from and into the United States. The second is the Hazardous Waste Electronic Manifest System User Fee Rule, 83 FR 420 (hereinafter "the e-Manifest fee rule") promulgated on January 3, 2018 and is the second in a series of new rules that implement the national electronic manifest system. Finally, the third rule is the Revisions to the Definition of Solid Waste, Response to Vacatur of Certain

Provisions of the Definition of Solid Waste Rule, 83 FR 24664, (hereinafter "the Vacatur Rule") promulgated on May 30, 2018 in response to vacatur orders by the United States Court of Appeals for the District of Columbia Circuit. These revisions are necessary for the Department to maintain regulations that are at least as stringent as those promulgated federally, a requirement to preserve the State's authorized status.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Comments may be submitted in writing or orally at a public hearing to be held December 7, 2018 at 10:30 AM in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: December 7, 2018

CONTACT PERSON AT AGENCY: Vernon H. ("Chip") Crockett, Chief
Industrial Hazardous Waste Branch
Alabama Department of Environmental Management – Land Division
(334) 270-5627
vhc@adem.alabama.gov



Lance R. LeFleur
Director

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 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).

(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 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: _____
Surety(ies): [name(s) and business address(es)]

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 Alabama 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 AHW MMA, the regulations promulgated thereunder, the permit issued to the Principal or any order(s) issued to the Principal for activities regulated pursuant to the AHW MMA, 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 Alabama 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, 1400 Coliseum Boulevard, Montgomery, Alabama 36110-2059]

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 Alabama 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

- 1. 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, P. O. Box 301463 (Zip 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 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 overflowing 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(2)].

(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 was 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 used oil 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 Presumption. 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), ~~(b), and (c)~~ 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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