APA-1
Revised 4/2018

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency **Environmental Management**

Rule No. **335-14-17-.06**

Rule Title: **Standards for Used Oil Processors and Re-Refiners**

____ 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

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Does the proposed rule have an economic impact? NO

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

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Certification of Authorized Official

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

Signature of certifying officer Marilyn Elliott

Date October 19, 2018

(DATE FILED)
(STAMP)

APA-2

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 vacaturs ordered 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:

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Director

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 used oil 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 law 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 law enforcement, 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. ~~e~~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];~~ and t~~

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