

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
Rule No. 335-14-17-.03
Rule Title: Standards for Used Oil Generators

 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? YES

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

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

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

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

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

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

Certification of Authorized Official

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

Signature of certifying officer *Nancy Elliott*

Date September 20, 2011

APA-2
11/96

**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE:

| | |
|---------------|---|
| 335-14-17-.02 | <u>Applicability</u> (Amend) |
| 335-14-17-.03 | <u>Standards for Used Oil Generators</u> (Amend) |
| 335-14-17-.05 | <u>Standards for Used Oil Transporter and Transfer Facilities</u> (Amend) |
| 335-14-17-.06 | <u>Standards for Used Oil Processors and Re-Refiners</u> (Amend) |
| 335-14-17-.07 | <u>Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery</u> (Amend) |
| 335-14-17-.09 | <u>Standards for Disposal of Used Oil</u> (Amend) |


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

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

TIME, PLACE, MANNER OF PRESENTING VIEWS: Comments may be submitted in writing or orally at a public hearing to be held Monday, December 5, 2011 at 10:00 a.m. in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Monday, December 5, 2011 at 5:00 p.m.

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


Lance R. LeFleur
Director

335-14-17-.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 according to the following schedule. 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 month schedule located at rule 335-14-1-.02(1)(a).

| If your facility is located in the county of... | Submit ADEM Form 8700-12 by the 15 th of... |
|--|--|
| Colbert, Fayette, Franklin, Greene, Hale, Lamar, Lauderdale, Lawrence, Limestone, Marion, Morgan, Pickens, Sumter, Tuscaloosa, Walker, Winston | February |
| Blount, Cherokee, Cullman, DeKalb, Etowah, Jackson, Madison, Marshall, St. Clair | April |
| Jefferson | June |
| Calhoun, Chambers, Clay, Cleburne, Coosa, Elmore, Lee, Macon, Montgomery, Randolph, Shelby, Talladega, Tallapoosa | August |
| Autauga, Baldwin, Barbour, Bibb, Bullock, Butler, Chilton, Choctaw, Clarke, Coffee, Conecuh, Covington, Crenshaw, Dale, Dallas, Escambia, Geneva, Henry, Houston, Lowndes, Marengo, Monroe, Perry, Pike, Russell, Washington, Wilcox | October |
| Mobile | December |

(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 overflowing 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 used oil 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 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 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 used oil 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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Statutory Authority: Code of Alabama 1975, §§ 22-22A-4(n), 22-22A-5(3), 22-22A-5(4), 22-22A-5(20), and 22-30-9(5).

History: January 5, 1995.

Amended: April 2, 1999; April 13, 2001; March 15, 2002; April 17, 2003; May 27, 2004; March 31, 2005; April 4, 2006; April 3, 2007; March 30, 2010;XXXXXXX.