

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-14-17-.07
Rule Title: Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery

 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 *Andy 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-.07 Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery.

(1) General.

(a) The requirements of 335-14-17-.07 apply to used oil burners except as specified in 335-14-17-.07(1)(a)1. and (a)2. A used oil burner is a facility where used oil not meeting the specification requirements in rule 335-14-17-.02(2) is burned for energy recovery in devices identified in rule 335-14-17-.07(2)(a). Facilities burning used oil for energy recovery under the following conditions are not subject to 335-14-17-.07:

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

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

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

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

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

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

4. Burners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in rule 335-14-17-.02(2) must also comply with rule 335-14-17-.08; and

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

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

(2) Restrictions on burning.

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

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

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

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

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

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

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

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

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

(3) Notification.

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

(b) Mechanics of notification. Used oil burners must submit a correct and complete ADEM Form 8700-12 (including all appropriate attachment pages and fees) reflecting current used oil activities to the Department annually ~~according to the following schedule.~~ 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).

If your site of waste generation 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

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

(4) Rebuttable presumption for used oil.

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

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

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

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

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in rule 335-14-2-.04. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste [for example, 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 arrangement as described in rule 335-14-17-.03(6)(c), to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

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

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

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

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

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

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

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

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

(iii) Freeboard controls in open used oil tanks designed to maintain sufficient freeboard to prevent 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 oil at burner facilities must be:

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

2. Not leaking (no visible leaks).

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

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

(i) Dikes, berms or retaining walls; and

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

(iii) An equivalent secondary containment system.

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

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

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

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

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

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

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

(i) Dikes, berms or retaining walls; and

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

(iii) An equivalent secondary containment system.

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

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

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

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

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

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

(i) Dikes, berms or retaining walls; and

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

(iii) An equivalent-secondary containment system.

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

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

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

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

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

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

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

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

1. Stop the release;

2. Contain the released used oil;

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

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

(6) Tracking.

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

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

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

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

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

5. The quantity of used oil accepted; and

6. The date of acceptance.

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

(7) Notices.

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

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

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

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

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

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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: January 12, 1996; March 8, 1996; April 13, 2001; March 15, 2002; March 31, 2005; April 4, 2006; April 3, 2007; May 27, 2008; XXXXXXX.