

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management
Rule No. 335-14-1-.02
Rule Title: Definitions and References

 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 Maury Elliot

Date October 20, 2016

**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

INTENDED ACTION: Amend chapter 335-14-1 of the ADEM Administrative Code

SUBSTANCE OF PROPOSED ACTION

The Department of Environmental Management proposes to amend portions of the Division 14 Hazardous Waste Program Regulations to make typographical and grammatical corrections, to make clarifications necessary to maintain consistency with analogous federal rules, and to adopt new amendments required by the USEPA which are necessary to maintain the programs fully authorized status.


TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held Wednesday, December 7, 2016 at 2:00 p.m. in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Blvd, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE

Wednesday, December 7, 2016 at 5:00 p.m.

CONTACT PERSON AT AGENCY: Chip Crockett, Chief of the Industrial Hazardous Waste Branch, ADEM Land Division, (334) 270-5627.



Lance R. LeFleur
Director

335-14-1-.02 Definitions and References.

(1) Definitions.

(a) For the purpose of these rules, the following words and phrases shall have the meanings given to them in this rule and as given by law unless the context of ADEM Administrative Code 335-14 indicates differently.

1. "Aboveground tank" means a device meeting the definition of "tank" in 335-14-1-.02 and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

2. "Aboveground used oil tank" means a tank used to store or process used oil that is not an underground storage tank as defined in 335-6-15-.02.

3. "Accumulated speculatively" or "Speculative accumulation" means a material that is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that – during the calendar year (commencing on January 1) – the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. Materials must be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under 335-14-2-.01(4)(c) are not to be included in making the calculation. Materials that are already defined as solid wastes also are not to be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling, however.

(i) A material is not accumulated speculatively, however, if the person accumulating it can show that:

(I) the material is managed in lined waste pile(s) which meet(s) the requirements of 335-14-5-.12 or tank(s) or container(s) as those terms are defined in 335-14;

(II) the material is potentially recyclable and has a feasible means of being recycled; and

(III) that, during the calendar year (commencing on January 1), the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. [In calculating the percentage of turnover, the 75 percent

requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under 335-14-2-.01(4)(c) are not included in making the calculation. Materials that are already defined as solid wastes also are not to be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling, however.]

(ii) Notwithstanding the preceding requirements, pulping liquors (i.e., black liquor) subject to the exclusion provided by 335-14-2-.01(4)(a)6. are not required to be managed in lined waste pile(s) which meet(s) the requirements of 335-14-5-.12 or tank(s) or container(s) as those terms are defined in 335-14.

4. "Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Department receives certification of final closure.

5. "Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after November 19, 1980 and which is not a closed portion. (See also "closed portion" and "inactive portion".)

6. "Active range" for the purposes of 335-14-7-.13 means a military range that is currently in service and is being regularly used for range activities.

7. "ADEM" means the Alabama Department of Environmental Management as established by Code of Alabama 1975, §22-22A-4.

8. "Adequate notification" for the purposes of 335-14-3-.08 means one meeting the requirements of 335-14-3-.08(5)(a) for each waste stream. An adequate notification shall be made for each individual waste stream from each generator.

9. "Administrator" means the Administrator of EPA or his designee.

10. "Agreement State" for the purposes of 335-14-7-.14 means a State that has entered into an agreement with the NRC under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.

11. "AHWMMA" means the Alabama Hazardous Wastes Management and Minimization Act of 1978, as amended, Code of Alabama 1975, §§22-30-1, et seq.

12. "Ampule" means an airtight vial made of glass, plastic, metal, or any combination of these materials.

13. "Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage

or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

14. "Annual" means a calendar year.
15. "Annually" means once during each calendar year.
16. "Application" for the purposes of 335-14-8 means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications by the Department. Application also includes the information required by the Department in 335-14-8-.02(5) through (19) (contents of Part B of the application).
17. "Aquifer" means a geologic formation, group of formations or part of a formation capable of yielding a significant amount of groundwater to wells or springs.
18. "Area of concern (AOC)" includes any area having a probable release of hazardous waste or hazardous constituent which is not from a solid waste management unit and is determined by the Department to pose a current or potential threat to human health or the environment. Such areas of concern may require investigations and remedial action as required under Section 3005(c)(3) of the Resource Conservation and Recovery Act and ADEM Admin. Code Rule 335-14-8-.03(3)(b)2. in order to ensure adequate protection of human health and the environment.
19. "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent, or person of equivalent responsibility.
20. "Battery" means a device consisting of one or more electrically connected electrochemical cells which are designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.
21. "Battery breaking" for the purposes of 335-14-7 means the decapitation, cutting, or otherwise liberating the contents of a lead-acid battery. This activity includes the separation of any component of the battery from the other components (e.g., drainage of acid from a spent lead-acid battery or removal of plates and groups from a spent lead-acid battery).
22. "Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:
 - (i)(I) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and
 - (ii) The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must

be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

(III) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(IV) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air and the driving of induced or forced draft fans or feedwater pumps); or

(V) The unit is one which the Department has determined, on a case-by-case basis, to be a boiler, after consideration of the standards in 335-14-1-.03(12).

23. "Broker" for the purposes of 335-14-3-.08 means a person who acts as an agent for a generator in return for a fee or commission.

24. "Bulked waste stream" for the purposes of 335-14-3-.08 means one in which multiple waste streams have been physically mixed together into an individual container or containers.

25. "By-product" for the purposes of 335-14-2-.01 is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

26. "CAMU-eligible waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris, that are managed for implementing cleanup, pursuant to the requirements of 335-14-5-.19(1), (2), and (3).

27. "Captive insurance" as used in 335-14-5-.08 and 335-14-6-.08 means insurance provided by a company meeting any of the following conditions:

- (i) Shares a common pool of assets as its parent corporation,
- (ii) Belongs to the same economic family as its parent corporation,

(iii) Is wholly owned and/or capitalized with funds provided exclusively by the parent company, or

(iv) Is a wholly owned insurance interest operated and managed within the corporate family of the owner or operator for the primary purpose of insuring risks from within the same corporate family.

28. "Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

29. "Cathode ray tube" or CRT means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A used, intact CRT means a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released.

30. "Central accumulation area" for the purposes of 335-14-3-.12 means an on-site hazardous waste accumulation area subject to either 335-14-3-.03(5)(a) or (b) for large quantity generators; or 335-14-3-.03(5)(d), (f), and (g) for small quantity generators. A central accumulation area at an eligible academic entity that chooses to be subject to 335-14-3-.12 must also comply with 335-14-3-.12(12) when accumulating unwanted material and/or hazardous waste.

31. "Certification" or "Recertification" means:

(i) A statement of professional opinion based upon knowledge and belief.

(ii) For the purposes of 335-14-3-.08 and Appendices thereto is a statement based upon knowledge and belief of the accuracy of the information required by Rule 335-14-3-.08.

32. "Certified delivery" for the purposes of 335-14-7-.14 means certified mail with return receipt requested, or equivalent courier service, or other means, that provides the sender with a receipt confirming delivery.

33. "Chemical agents and munitions" for the purposes of 335-14-7-.13 are as defined in 50 U.S.C. section 1521(j)(1).

34. "Closed container" means a container with a lid that is secured in a manner such that the waste will not leak if the container is tipped over.

35. "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion".)

36. "Closure" for the purposes of 335-14-8 means the act of securing a facility pursuant to the requirements of 335-14-5.

37. "Closure plan" as used in 335-14-5-.08 and 335-14-6-.08 means the plan for closure prepared in accordance with the requirements of 335-14-5-.07(3) or 335-14-6-.07(3).

38. "College/University" for the purpose of 335-14-3-.12 means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of Education.

39. "Commercial hazardous waste disposal facility" is one receiving hazardous waste not generated on site for disposal and to which a fee is paid or other compensation is given for disposal.

40. "Commission" means the Alabama Environmental Management Commission as established by Code of Alabama 1975, §2-22A-6.

41. "Competent authority" for the purposes of 335-14-3-.09 means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes destined for recovery operations.

42. "Component" means:

(i) Either the tank or ancillary equipment of a tank system.

(ii) For the purposes of 335-14-7 means any of the various materials and parts of a spent lead-acid battery, including but not limited to, plates and groups, rubber and plastic battery chips, acid, and paper/cellulose material.

(iii) For the purposes of 335-14-8 means any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function (e.g., a pump seal, pump, kiln liner, kiln thermocouple).

43. "Conditionally Exempt Small Quantity Generator (CESQG)" A generator is a conditionally exempt small quantity generator if no more than 100 kilograms of hazardous waste is generated in any calendar month during a twelve month period. The generator's twelve month period is assigned by county in the "specified month schedule" located at 335-14-1-.02(1)(a).

44. "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

45. "Consignee" for the purposes of 335-14-3-.05 means the ultimate treatment, storage, or disposal facility in a receiving country to which the hazardous waste will be sent.

46. "Consolidated waste stream" for the purposes of 335-14-3-.08 means one in which multiple waste streams are grouped together in individual containers for shipping purposes, but are not physically mixed together.

47. "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

48. "Contained" means held in a unit (including a land-based unit as defined in this subpart) that meets the following criteria:

(i) The unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures.

(ii) The unit is properly labeled or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit.

(iii) The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.

(iv) Hazardous secondary materials in units that meet the applicable requirements of 335-14-5 and 335-14-6 are presumptively contained.

49. "Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of 335-14-5-.30 or 335-14-6-.30.

50. "Contamination" means the presence of any hazardous constituent in a concentration that exceeds the naturally occurring concentration of that constituent.

51. "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous wastes or hazardous waste constituents which could threaten human health or the environment.

52. "Corrective action cost estimate" for the purposes of 335-14-5-.08 means the most recent of the estimates prepared in accordance with 335-14-5-.08(10).

53. "Corrective action management unit (CAMU)" means an area within a facility that is used only for implementing corrective action or cleanup at the facility, pursuant to the requirements of 335-14-5-.19(1), (2), and (3).

[Note: All regulated units included in a CAMU remain subject to all applicable requirements including, but not limited to, the requirements of 335-14-5-.06, 335-14-5-.07 and 335-14-5-.08, 335-14-8, and the unit-specific requirements of

335-14-5 and 335-14-6 that applied to the units prior to their incorporation into the CAMU. See 335-14-5-.19(1)(b).]

54. "Corrective action plan" for the purposes of 335-14-5-.08 means the plan(s) which describes the corrective actions to be performed in accordance with the requirements of 335-14-5-.06(11) and (12).

55. "Corrosion expert" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

56. "Countries concerned" for the purposes of 335-14-3-.09 means the OECD Member countries of export or import and any OECD Member countries of transit.

57. "Country of export" for the purpose of 335-14-3-.09 means any designated OECD Member country listed in 335-14-3-.05(9)(a)1. from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated.

58. "Country of import" for the purpose of 335-14-3-.09 means any designated OECD Member country listed in 335-14-3-.05(9)(a)1. to which a transboundary movement of hazardous waste is planned or takes place for the purpose of submitting the wastes to recovery operations therein.

59. "Country of transit" for the purpose of 335-14-3-.09 means any designated OECD Member country listed in 335-14-3-.05(9)(a)1. and (a)2. other than the country of export or country of import across which a transboundary movement of hazardous wastes is planned or takes place.

60. "CRT collector" means a person who receives used, intact CRTs for recycling, repair, resale, or donation.

61. "CRT Exporter" means any person in the United States who initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for such export.

62. "CRT glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture CRT glass.

63. "CRT processing" means conducting all of the following activities:

- (i) Receiving broken or intact CRTs; and
- (ii) Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

- (iii) Sorting or otherwise managing glass removed from CRT monitors.
64. "Current closure cost estimate" as used in 335-14-5-.08 and 335-14-6-.08 means the most recent of the estimates prepared in accordance with 335-14-5-.08(3)(a), (3)(b), and (3)(c) or 335-14-6-.08(3)(a), (3)(b), and (3)(c).
65. "Current post-closure cost estimate" as used in 335-14-5-.08 and 335-14-6-.08 means the most recent of the estimates prepared in accordance with 335-14-5-.08(5)(a), (5)(b), and (5)(c) or 335-14-6-.08(5)(a), (5)(b), and (5)(c).
66. "CWA" or "Clean Water Act" for the purposes of 335-14-8 means the act formerly referred to as the Federal Water Pollution Control Act and the amendments to that act.
67. "Daily" means once during each day of the year.
68. "Day" means a day of the year.
69. "Department" means the Alabama Department of Environmental Management as established by Code of Alabama 1975, §22-22A-4.
70. "Designated facility" means:
- (i) a hazardous waste treatment, storage, or disposal facility which:
- (I) has received a permit (or interim status) in accordance with the requirements of 40 CFR, Parts 270 and 124,
- (II) has received a permit (or interim status) from ~~the a State of Alabama in accordance with 335-14-8~~ authorized in accordance with 40 CFR Part 271; or
- (III) is regulated under 335-14-2-.01(6)(c)2. or 335-14-7-.06, and
- (IV) that has been designated on the manifest by the generator pursuant to 335-14-3-.02(1).
71. "Designated facility" also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with 335-14-5-.05(3)(f) or 335-14-6-.05(3)(f).
- (i) If a waste is destined to a facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving State to accept such waste.
72. "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste; except those management activities described in 335-14-11-.02(4)(a) and (c) and 335-14-11-.03(4)(a) and (c). A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

73. "Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

74. "Dioxins and furans (D/F)" means tetra, penta, hexa, hepta, and octachlorinated dibenzo dioxins and furans.

75. "Director" means the Director of the Department, appointed pursuant to Code of Ala. 1975, §22-22A-4, or his designee.

76. "Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

77. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters including groundwaters.

78. "Disposal facility" means a disposal site. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed but does include all hazardous waste management units within a corrective action management unit.

79. "Disposal site" means the location where any ultimate disposal of hazardous waste occurs.

80. "Do-it-yourselfer used oil collection center" means any site or facility that accepts/aggregates and stores used oil collected only from household do-it-yourselfers.

81. "Draft permit" for the purposes of 335-14-8 means a document prepared under 335-14-8-.08(4) indicating the Department's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit and a notice of intent to deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination is not a draft permit. [See 335-14-8-.08(4).] A proposed permit is not a draft permit.

82. "Drip pad" is an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

83. "Electronic manifest" or "e-Manifest" means the electronic format of the hazardous waste manifest that is obtained from EPA's nation e-Manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

84. "Electronic manifest system" or "e-Manifest system" means EPA's national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

8385. "Elementary neutralization unit" means a device which:

(i) Is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in 335-14-2-.03(3), or they are listed in 335-14-2-.04 only for this reason; and

(ii) Meets the definition of a tank, tank system, container, transport vehicle, or vessel in this paragraph.

8486. "Eligible academic entity" for the purposes of 335-14-3-.12 means a college or university, or a non-profit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

8587. "Eligible Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)" for the purposes of 335-14-7-.14 is NARM that is eligible for the Transportation and Disposal Conditional Exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by State of Alabama NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with 10 CFR Part 61 or NRC Agreement State equivalent regulations.

8688. "Emergency permit" for the purposes of 335-14-8 means a permit issued in accordance with 335-14-8-.06(1).

8789. "Engineer" means a person registered as a licensed professional engineer with the Alabama Board of Licensure for Professional Engineers and Land Surveyors and practicing under the Rules of Professional Conduct, specifically Canon II.

8890. "EPA" means the United States Environmental Protection Agency.

8991. "EPA Acknowledgment of Consent" for the purposes of 335-14-3-.05 means the cable sent to EPA from the U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.

9092. "EPA hazardous waste number" means the number assigned by EPA and the Department to each hazardous waste listed in 335-14-2-.04 and to each characteristic identified in 335-14-2-.03.

9493. "EPA identification number" means the number assigned by EPA or the Department to each generator, transporter, and treatment, storage or disposal facility.

9294. "Equivalent method" means any testing or analytical method approved by the Department under 335-14-1-.03(1).

9395. "Excluded scrap metal" for the purposes of 335-14-2-.01 is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

9496. "Exempted waste" for the purposes of 335-14-7-.14 means a waste that meets the eligibility criteria in 335-14-7-.14(3) and meets all of the conditions in 335-14-7-.14(4), or meets the eligibility criteria in 335-14-7-.14(12) and complies with all the conditions in 335-14-7-.14(13). Such waste is conditionally exempted from the regulatory definition of hazardous waste described in 335-14-2-.01(3).

9597. "Existing aboveground used oil tank" means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation has commenced on or prior to the effective date of these rules. Installation will be considered to have commenced if the owner or operator has obtained all federal, State of Alabama, and local approvals or permits necessary to begin installation of the tank and if either:

- (i) A continuous on-site installation program has begun, or
- (ii) The owner or operator has entered into contractual obligations – which cannot be canceled or modified without substantial loss – for installation of the tank to be completed within a reasonable time.

9698. "Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if:

- (i) The owner or operator had obtained the Federal, State of Alabama, and local approvals or permits necessary to begin actual construction; and
- (ii) Either
 - (I) a continuous on-site physical construction program had begun; or
 - (II) the owner or operator had entered into contractual obligations which could not be canceled or modified without substantial loss for physical construction of the facility to be completed within a reasonable time.

9799. "Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

98100. "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has

obtained all Federal, State of Alabama, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

(i) A continuous on-site physical construction or installation program has begun; or

(ii) The owner or operator has entered into contractual obligations - which cannot be canceled or modified without substantial loss - for physical construction of the site or installation of the tank system to be completed within a reasonable time.

~~99~~101. "Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

~~100~~102. "Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

~~101~~103. "Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other Federal, State of Alabama, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

~~102~~104. "Exporter" for the purposes of 335-14-3-.09 means the person under the jurisdiction of the country of export who has, or will have at the time the planned transboundary movement commences, possession or other forms of legal control of the wastes and who proposes transboundary movement of the hazardous wastes for the ultimate purpose of submitting them to recovery operations. When the United States is the country of export, *exporter* is interpreted to mean a person domiciled in the United States.

~~403~~105. "Extent of contamination" means the horizontal and vertical area in which the concentrations of hazardous constituents in environmental media are above detection limits or background concentrations indicative of the region, whichever is appropriate as determined by the Department.

~~404~~106. "Facility" or "hazardous waste management facility" or "HWM facility" means:

(i) All contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

(ii) For the purpose of implementing corrective action under 335-14-5-.06(12), all contiguous property under the control of the owner or operator seeking a permit under Chapter 30 of Title 22, Code of Alabama 1975, (AHWMMA). This definition also applies to facilities implementing corrective action under §22-30-19 et seq., Code of Alabama 1975, and/or RCRA Section 3008(h).

(iii) Notwithstanding subparagraph (ii) of this definition, a remediation waste management site is not a facility that is subject to 335-14-5-.06(12), but is subject to corrective action requirements if the site is located within such a facility.

~~405~~107. "Facility mailing list" for the purposes of 335-14-8 means the mailing list for a facility maintained by ADEM in accordance with 335-14-8-.08(6)(c)1.(iv).

~~406~~108. "Facility owner" means a person who owns a facility. In most cases, this will be the "operator" or the "owner".

~~407~~109. "Federal, State of Alabama and local approvals or permits necessary to begin physical construction" means permits and approvals required under Federal, State of Alabama, or local hazardous waste control statutes, regulations, or ordinances.

~~408~~110. "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136-136y).

~~409~~111. "Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under 335-14-5 and 335-14-6 are no longer conducted at the facility unless subject to the provisions in 335-14-3-.03(5).

~~410~~112. "Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

~~411~~113. "Formal written affiliation agreement" for the purposes of 335-14-3-.12 for a non-profit research institute means a written document that establishes a relationship between institutions for the purposes of research and/or

education and is signed by authorized representatives, as defined by 335-14-1-.02 for each institution. A relationship on a project-by-project basis or grant-by-grant basis is not considered a formal written affiliation agreement. A "formal written affiliation agreement" for a teaching hospital means a master affiliation agreement and program letter of agreement, as defined by the Accreditation Council for Graduate Medical Education, with an accredited medical program or medical school.

~~112~~114. "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

~~113~~115. "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

~~114~~116. "Functionally equivalent component" for the purposes of 335-14-8 means a component which performs the same function or measurement and which meets or exceeds the performance specifications of another component.

~~115~~117. "Generator" means:

(i) Any person, by individual generation site, whose act or process produces hazardous waste identified or listed in 335-14-2 or whose act first causes a hazardous waste to become subject to regulation. The term generator includes those persons further defined as a large quantity generator, a small quantity generator, and/or a conditionally exempt small quantity generator.

(ii) For the purposes of 335-14-3-.08 is a person as defined in 335-14-1-.02, but such term shall not include the treatment, storage, disposal, or other management of solid or hazardous wastes received from off-site when the final disposal of the waste occurs at the same facility which treated, stored, or otherwise managed the waste.

~~116~~118. "Geologist" means a person who holds a license as a professional geologist under the Alabama Professional Geologist Licensing Act.

~~117~~119. "Hazardous secondary material" means a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste under 335-14-2.

~~118~~120. "Hazardous secondary material generator" means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this paragraph, "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For the purposes of 335-14-2-.01(2)(a)2(ii) and 335-14-2-.01(4)(a)23, a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

~~119~~121. "Groundwater" means water below the land surface in a zone of saturation.

~~120~~122. "Hazardous constituents" are those substances listed in 335-14-2 Appendix VIII and/or 335-14-5 Appendix IX and include hazardous constituents

released from solid waste, hazardous waste, or hazardous waste constituents that are reaction by-products.

~~121~~123. "Hazardous waste" means a hazardous waste as defined in 335-14-2-.01(3).

~~122~~124. "Hazardous waste constituent" means a constituent that caused the Department to list the hazardous waste in 335-14-2-.04 or a constituent listed in Table 1 of 335-14-2-.03(5).

~~123~~125. "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

~~124~~126. "Home scrap metal" for the purposes of 335-14-2-.01 means scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

~~125~~127. "Importer" for the purposes of 335-14-3-.09 means the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the country of import.

~~126~~128. "In operation" for the purposes of 335-14-8 refers to a facility which is treating, storing, or disposing of hazardous waste.

~~127~~129. "Inactive portion" means that portion of a facility which is not operated after November 19, 1980. (See also "active portion" and "closed portion".)

~~128~~130. "Inactive range" for the purposes of 335-14-7-.13 means a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

~~129~~131. "Incinerator" means any enclosed device that:

(i) Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

(ii) Meets the definition of infrared incinerator or plasma arc incinerator.

~~130~~132. "Incompatible waste" means a hazardous waste which is unsuitable for:

(i) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

(ii) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases. (See Appendix V of 335-14-5 and 6 for examples.)

~~434~~133. "Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

~~432~~134. "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

- (i) Cement kilns;
- (ii) Lime kilns;
- (iii) Aggregate kilns;
- (iv) Phosphate kilns;
- (v) Coke ovens;
- (vi) Blast furnaces;
- (vii) Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces);
- (viii) Titanium dioxide chloride process oxidation reactors;
- (ix) Methane reforming furnaces;
- (x) Pulping liquor recovery furnaces;
- (xi) Combustion devices used in the recovery of sulfur values from spent sulfuric acid; and
- (xii) Halogen acid furnaces for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3 percent, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20 percent as generated.

(xiii) Such other devices as the Department may, after notice and comment, add to this list on the basis of one or more of the following factors:

(I) The design and use of the device primarily to accomplish recovery of material products;

(II) The use of the device to burn or reduce raw materials to make a material product;

(III) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

(IV) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

(V) The use of the device in common industrial practice to produce a material product; and

(VI) Other factors, as appropriate.

~~133~~135. "Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

~~134~~136. "Inground tank" means a device meeting the definition of "tank" in 335-14-1-.02 whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

~~135~~137. "Injection well" means a bored, drilled, or driven shaft or dug hole which is used for the injection of pollutants. (See also "underground injection".)

~~136~~138. "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

~~137~~139. "Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

~~138~~140. "Intermediate facility" means any facility that stores hazardous secondary materials for more than 10 days, other than a hazardous secondary material generator or reclaimer of such material.

~~139~~141. "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

~~140~~142. "Laboratory" for the purposes of 335-14-3-.12 means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.

~~141~~143. "Laboratory clean-out" for the purposes of 335-14-3-.12 means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor/occupant. A regularly scheduled removal of unwanted material as required by 335-14-3-.12(9) does not qualify as a laboratory clean-out.

~~142~~144. "Laboratory worker" for the purposes of 335-14-3-.12 means a person who handles chemicals and/or unwanted material in a laboratory and may include, but is not limited to, faculty, staff, post-doctoral fellows, interns, researchers, technicians, supervisors/managers, and principal investigators. A person does not need to be paid or otherwise compensated for his/her work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.

~~143~~145. "Lamp", also referred to as "universal waste lamp", means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

~~144~~146. "Land-based unit" means an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

~~145~~147. "Land Disposal Restriction (LDR) treatment standards" for the purposes of 335-14-7-.14 means treatment standards, under 335-14-9, that a RCRA hazardous waste must meet before it can be disposed of in a RCRA hazardous waste land disposal unit.

~~146~~148. "Land surveyor" means a person registered as a licensed Land Surveyor with the Alabama Board of Licensure for Professional Engineers and Land Surveyors and practicing under the Rules of Professional Conduct (Code of Ethics).

~~147~~149. "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

~~148~~150. "Land use controls" has the same meaning as in 335-15-1-.02.

~~149~~151. "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave or a corrective action management unit.

~~150~~152. "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

~~151~~153. "Large Quantity Generator (LQG)" A generator is a large quantity generator if 1000 kilograms or more of hazardous waste, or more than one kilogram of acute hazardous waste as listed in 335-14-2-.04(2)(a) or 335-14-2-.04(4)(e), is generated in any calendar month during a twelve month period. The generator's twelve month period is assigned by county in the "specified month schedule" located at 335-14-1-.02(1)(a).

~~152~~154. "Large Quantity Handler of Universal Waste" means a universal waste handler (as defined in 335-14-1-.02) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000 kilogram limit is met or exceeded.

~~153~~155. "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

~~154~~156. "Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

~~155~~157. "License" for the purposes of 335-14-7-.14 means a license issued by the Nuclear Regulatory Commission, or NRC Agreement State, to users that manage radionuclides regulated by NRC, or NRC Agreement States, under authority of the Atomic Energy Act of 1954, as amended.

~~156~~158. "Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, waste pile, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

~~157~~159. "Low-Level Mixed Waste (LLMW)" for the purposes of 335-14-7-.14 is a waste that contains both low-level radioactive waste and RCRA hazardous waste.

~~158~~160. "Low-Level Radioactive Waste (LLW)" for the purposes of 335-14-7-.14 is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e.(2) of the Atomic Energy Act. (See also NRC definition of "waste" at 10 CFR 61.2)

~~159~~161. "Low-Level Radioactive Waste Disposal Facility (LLRWDF)" for the purposes of 335-14-7-.14 is a disposal facility licensed by the NRC or an NRC Agreement State to dispose of low-level radioactive waste.

~~160~~162. "Major facility" for the purposes of 335-14-8 means any facility or activity classed as such by the Department.

~~161~~163. "Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and/or disposal of hazardous waste.

~~162~~164. "Manifest" means the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), or the electronic manifest, originated and signed by the generator or offered ~~or~~ in accordance with the instructions in the 335-14-3-Appendix I and the applicable requirements of 335-14-3 through 335-14-6.

~~163~~165. "Manifest tracking number" means the alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits), which is pre-printed in Item 4 of the Manifest by a registered source.

~~164~~166. "Mercury-containing equipment" means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

~~165~~167. "Method detection limit or MDL" means the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix type containing the analyte.

~~166~~168. "Military" for the purposes of 335-14-7-.13 means the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

~~167~~169. "Military munitions" means all ammunition products and components produced or used by or for the US Department of Defense or the US Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the US Coast Guard, the US Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and

dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

~~168~~170. "Military range" for the purposes of 335-14-7-.13 means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

~~169~~171. "Mining overburden returned to the mine site" means any material overlaying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

~~170~~172. "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR Part 146, containment building, corrective action management unit, unit eligible for a research, development and demonstration permit under 335-14-8-.06(4); or staging pile.

~~171~~173. "Mixed waste" means a solid waste that is a mixture of hazardous waste [as defined in 335-14-2-.01(3)] and radioactive waste (as defined in 10 CFR 61.2). The radioactive component of mixed waste is subject to regulation by the Atomic Energy Act (AEA)/Nuclear Regulatory Commission (NRC). The non-radioactive chemically hazardous component of mixed waste is subject to regulation by the AHWMMA and ADEM Admin. Code Rule 335-14.

~~172~~174. "Month" means a month of the year.

~~173~~175. "Monthly" means once during each month of the year.

~~174~~176. "Motor vehicle manufacturing" means the manufacture of automobiles and light trucks/utility vehicles (including light duty vans, pick-up trucks, minivans, and sport utility vehicles). Facilities must be engaged in manufacturing complete vehicles (body and chassis or unibody) or chassis only.

~~175~~177. "Movement" means that hazardous waste transported to a facility in an individual vehicle.

~~176~~178. "National Pollutant Discharge Elimination System" or "NPDES" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and enforcing pretreatment requirements under the Alabama Water Pollution Control Act, Code of Alabama 1975, §§ 22-22-1 to 22-22-14, as amended, and the regulations in Division 6 of the Department's Administrative Code.

~~177~~179. "Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)" for the purposes of 335-14-7-.14 means radioactive materials that:

(i) Are naturally occurring and are not source, special nuclear, or byproduct materials (as defined by the AEA) or

(ii) Are produced by an accelerator.

[**Note:** NARM is regulated by the States under State law, or by DOE (as authorized by the AEA) under DOE orders.]

~~178~~180. "New aboveground used oil tank" means an aboveground tank that will be used to store or process used oil and for which installation has commenced after the effective date of these rules.

~~179~~181. "New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced after November 19, 1980.

~~180~~182. "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986; except, however, for purposes of 335-14-5-.10(4)(g)4. and 335-14-6-.10(4)(g)4., a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system".)

~~181~~183. "Non-profit research institute" for the purposes of 335-14-3-.12 means an organization that conducts research as its primary function and files as a non-profit organization under the tax code of 26 U.S.C. 501(c)(3).

~~182~~184. "NRC" for the purposes of 335-14-7-.14 means the U. S. Nuclear Regulatory Commission.

~~183~~185. "No free liquids" for the purposes of 335-14-2-.01(4)(a)26. and 335-14-2-.01(4)(b)18. means that solvent-contaminated wipes may not contain free liquids as determined by Method 9095B (Paint Filter Liquids Test), included in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication SW-846), which is incorporated by reference, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method as defined by the Department.

~~184~~186. "OECD" for the purposes of 335-14-3-.09 means the Organization for Economic Cooperation and Development.

~~185~~187. "OECD area" for the purposes of 335-14-3-.09 means all land or marine areas under the national jurisdiction of any designated OECD Member country listed in 335-14-3-.05(9)(a)1. When the regulations refer to shipments to or from an OECD Member country, this means OECD area.

~~186~~188. "One-time shipment" means a unique waste received at a commercial hazardous waste disposal facility which originated from a single generator and is not routinely produced by that generator on a regularly recurring basis. Such waste would include, but would not be limited to, lab packs. Other examples might include spill cleanups, or the removal of obsolete or out-dated commercial chemicals.

~~187~~189. "Onground tank" means a device meeting the definition of "tank" in 335-14-1-.02 and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

~~188~~190. "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which he/she controls and to which the public does not have access, are also considered on-site property.

~~189~~191. "Open burning" means the combustion of any material without the following characteristics:

(i) Control of combustion air to maintain adequate temperature for efficient combustion;

(ii) Containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(iii) Control of emission of the gaseous combustion products.

~~190~~192. "Operating day" means any day on which hazardous waste is treated, stored, or disposed of in a unit. For example, each day that a hazardous waste storage unit contains hazardous waste is an operating day; as is each day that a disposal unit contains or receives hazardous waste, or each day that hazardous waste is treated in a treatment unit.

~~191~~193. "Operating facility" as used in 335-14-5-.08 and 335-14-6-.08 means a facility with active treatment, storage, and/or disposal units subject to the requirements of 335-14-5, 335-14-6, and 335-14-8.

~~192~~194. "Operator" means the person responsible for the overall operation of a facility.

~~193~~195. "Other wastes" are wastes as defined in 335-14-1-.02 that are not hazardous waste as defined in 335-14-2-.01.

~~194~~196. "Owner" means the person who owns in fee simple the property on which a facility or part of a facility is sited.

~~195~~197. "Parent corporation" means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

~~196~~198. "Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 335-14-5 and 335-14-6 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

~~197~~199. "Permit" for the purposes of 335-14-8 means an authorization or equivalent control document issued by the Department to implement the requirements of 335-14-8. Permit does not include any authorization which has not been the subject of final administrative action, such as a draft permit or a proposed permit; but permit does include interim status permits to the extent set out in 335-14-8-.07.

~~198~~200. "Person" means any and all persons, natural or artificial, including, but not limited to any individual, partnership, association, society, joint stock company, firm company, corporation, institution, trust, estate, or other legal entity or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.

~~199~~201. "Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of 335-14-5 or 335-14-6.

~~200~~202. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(i) Is a new animal drug under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 201(w), or

(ii) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

(iii) Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by paragraph ~~1-(i)~~ or ~~2-(ii)~~ of this definition, or

(iv) Is an animal feed under FFDCA ~~paragraph~~ Section 201(x) that bears or contains any substances described by 335-14-11-.01(3)(a) or (b).

~~201~~203. "Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking or other processes (i.e., facilities classified as SIC 2911).

202204. "Physical construction" for the purposes of 335-14-8 means excavation, movement of earth, erection of forms or structures, or similar activity to prepare a hazardous waste management facility to accept hazardous waste.

203205. "Pile" means any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage and that is not a containment building.

204206. "Plasma arc incinerator" means any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

205207. "Plastic" means the non-metallic compounds that result from a chemical reaction and are molded or formed into rigid or pliable construction materials.

206208. "Plastic battery chips" for the purposes of 335-14-7 means whole components and any pieces thereof which are constructed of plastic and utilized in a lead-acid battery.

207209. "Plates and groups" for the purposes of 335-14-7 means the internal components of a lead-acid battery which are constructed of lead and/or lead alloys. Plates and groups shall be considered a spent material (solid waste) and a hazardous waste (D008) due to the concentration of leachable lead therein.

208210. "Point source" means any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

209211. "Post-closure facility" as used in 335-14-5-.08 and 335-14-6-.08 means a facility at which all treatment, storage, and/or disposal units have been closed in accordance with 335-14-5-.07 or 335-14-6-.07, at which the owner or operator is unable to demonstrate closure by removal in accordance with 335-14-8-.01(1)(c)5., for one or more units.

210212. "Post-closure only permit" for the purposes of 335-14-8 means a permit for a facility at which the only hazardous waste treatment, storage, or disposal activities conducted which require a permit pursuant to 335-14-8 are activities related to the post-closure care, monitoring, and/or corrective actions performed at closed hazardous waste management units. Corrective actions specified in post-closure only permits shall include activities related to regulated hazardous waste management units as well as solid waste management units (SWMU) and areas of concern (AOC).

211213. "Post-closure permit" for the purposes of 335-14-8 means a permit which addresses the post-closure care requirements for closed hazardous waste treatment, storage, or disposal unit(s) at a facility. The term "post-closure permit" includes both post-closure only permits and the post-closure care portions of operating permits.

212214. "Post-closure plan" as used in 335-14-5-.08 and 335-14-6-.08 means the plan for post-closure care prepared in accordance with the requirements of 335-14-5-.07(8) through (11) or 335-14-6-.07(8) through (11).

213215. "Primary exporter" for the purposes of 335-14-3-.05 means any person who is required to originate the manifest for a shipment of hazardous waste in accordance with 40 CFR Part 262, Subpart B, and ADEM Admin. Code Rule 335-14-3-.02, which specifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

214216. "Privatized municipal waste treatment facility" means a facility which is operated to treat domestic and/or industrial wastewaters from a municipality or industrial park and which otherwise meets the definition of a publicly owned treatment works (POTW), but which is not publicly owned.

215217. "Processed scrap metal" for the purposes of 335-14-2-.01 means scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and, fines, drosses and related materials which have been agglomerated.

[Note: Shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled [335-14-2-.01(4)(a)14.].

216218. "Prompt scrap metal" for the purposes of 335-14-2-.01 means scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

217219. "Publicly owned treatment works" or "POTW" means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by the State of Alabama or municipality [as defined by section 502(4) of the Clean Water Act ~~33 U.S.C. §1362(4)~~]. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

218220. "Qualified Groundwater Scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by State of Alabama registration, professional certifications, or completion of accredited university courses that enable that individual to make sound professional judgments regarding groundwater monitoring and contaminant fate and transport.

219221. "Quarter" means a period of three consecutive months.

~~220222~~. "Quarterly" means once during each period of three consecutive months for a total of four times each calendar year.

~~221223~~. "RCRA" means the Federal Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. §§6901 et seq.).

~~222224~~. "Reactive acutely hazardous unwanted material" for the purposes of 335-14-3-.12 means an unwanted material that is one of the acutely hazardous commercial chemical products listed in 335-14-2-.04(4)(e) for reactivity.

~~223225~~. "Receiving country" for the purposes of 335-14-3-.05 means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage, or disposal (except short-term storage incidental to transportation).

~~224226~~. "Reclaimed" for the purposes of 335-14-2-.01 means a material that is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents. In addition, for purposes of 335-14-2-.01(4)(a)23. and 335-14-2-.01(4)(a)24, smelting, melting, and refining furnaces are considered to be solely engaged in metals reclamation if the metal recovery from the hazardous secondary materials meets the same requirements as those specified for metals recovery from hazardous waste found in 335-14-7-.08, and if the residuals meet the requirements specified in 335-14-7-.08.

~~225227~~. "Recognized trader" for the purposes of 335-14-3-.09 means a person who, with appropriate authorization of countries concerned, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate transboundary movements of wastes destined for recovery operations.

~~226228~~. "Recovery facility" for the purposes of 335-14-3-.09 means a facility which, under applicable domestic law, is operating or is authorized to operate in the country of import to receive wastes and to perform recovery operations on them.

~~227229~~. "Recovery operations" for the purposes of 335-14-3-.09 means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses which include:

- | | | |
|-------|----|---|
| (i) | R1 | Use as a fuel (other than in direct incineration) or other means to generate energy |
| (ii) | R2 | Solvent reclamation/regeneration |
| (iii) | R3 | Recycling/reclamation of organic substances which are not used as solvents |
| (iv) | R4 | Recycling/reclamation of metals and metal compounds |
| (v) | R5 | Recycling/reclamation of other inorganic materials |
| (vi) | R6 | Regeneration of acids or bases |

- (vii) R7 Recovery of components used for pollution abatement
- (viii) R8 Recovery of components used from catalysts
- (ix) R9 Used oil re-refining or other reuses of previously used oil
- (x) R10 Land treatment resulting in benefit to agriculture or ecological improvement
- (xi) R11 Uses of residual materials obtained from any of the operations numbered R1-R10
- (xii) R12 Exchange of wastes for submission to any of the operations numbered R1-R11
- (xiii) R13 Accumulation of material intended for any operation numbered R1-R12

228230. "Recycled" for the purposes of 335-14-2-.01 means a material is used, reused, or reclaimed.

229231. "Regional Administrator" means the Regional Administrator for the EPA Region in which the facility is located, or his designee.

230232. "Release" means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, escaping, leaching, pumping, or disposing into the environment of any hazardous waste or hazardous constituent.

231233. "Remanufacturing" means processing a higher-value hazardous secondary material in order to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For the purpose of this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.

232234. "Remediation waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup, pursuant to the requirements of 335-14-5-.19(1), (2), and (3).

233235. "Remediation waste management site" means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under 335-14-5-.06(12), but is subject to corrective action requirements if the site is located in such a facility.

234236. "Replacement unit" means a landfill, surface impoundment, or waste pile unit [1] from which all or substantially all of the waste is removed, and [2] that is subsequently reused to treat, store, or dispose of hazardous waste. "Replacement

unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility in accordance with an approved closure plan or EPA or State of Alabama approved corrective action.

235237. "Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole.

236238. "Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

237239. "Rubber" means any of numerous synthetic elastic materials of varying chemical composition with properties similar to those of natural rubber.

238240. "Rubber battery chips" for the purposes of 335-14-7 means whole components and any pieces thereof which are constructed of rubber and utilized in a lead-acid battery.

239241. "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

240242. "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

241243. "Satellite accumulation" means accumulation of as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste as listed in 335-14-2-.04(4)(e) in containers at or near any point of generation where the wastes initially accumulates, provided the generator complies with 335-14-3-.03(5)(c).

242244. "Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

243245. "Schedule of compliance" for the purposes of 335-14-8 means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements leading to compliance with the AHWMA and Division 335-14.

244246. "Scrap metal" for the purposes of 335-14-2-.01 means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars) which when worn or superfluous can be recycled.

245247. "SDWA" or the "Safe Drinking Water Act" for the purposes of 335-14-8 means Code of Alabama 1975, §§ 22-23-30 to 22-23-54, as amended.

246248. "Semi-annual" means a six month period.

247249. "Semi-annually" means once during each six month period for a total of two times each calendar year.

248250. "Site" means the land or water area where any facility, generator, or activity is physically located or conducted, including adjacent land used in connection with the facility, generator, or activity.

249251. "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

250252. "Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb. of sludge treated on a wet-weight basis.

251253. "Small Quantity Generator (SQG)" a generator is a small quantity generator if more than 100 kilograms is generated in any calendar month during a twelve month period and less than 1000 kg of hazardous waste is generated in every month during the same twelve month period. The generator's twelve month period is assigned by county in the "specified month schedule" located at 335-14-1-.02(1)(a).

252254. "Small Quantity Handler of Universal Waste" means a universal waste handler (as defined in 335-14-1-.02) who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.

253255. "Solid waste" means a waste as defined by 335-14-2-.01(2).

254256. "Solid waste management unit" or "SWMU" includes any unit which has been used for the treatment, storage, or disposal of solid waste at any time, irrespective of whether the unit is or ever was intended for the management of solid waste. Units subject to regulation under 335-14-5, 335-14-6, 335-14-7, or 335-14-8 are also solid waste management units. SWMU's include areas that have been contaminated by routine and systematic releases of hazardous waste or hazardous constituents, excluding one-time accidental spills that are immediately remediated and cannot be linked to solid waste management activities (e.g., product or process spills).

255257. "Solvent-contaminated wipe" means a wipe that, after the use or after cleaning up a spill, either (1) contains one or more of the F001 through F005 solvents listed in 335-14-2-.04(2) or the corresponding P- or U- listed solvents found in 335-14-2-.04(4); (2) exhibits a hazardous characteristic found in 335-14-2-.03 when that characteristic results from a solvent listed in 335-14-2; and/or (3) exhibits only the hazardous waste characteristic of ignitability found in 335-14-2-.03(2) due to the presence of one or more solvents that are not listed in 335-14-2. Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions in 335-14-2-.01(4)(a)26. and 335-14-2-.01(4)(b)18.

256258. "Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. "Sorb" means to either adsorb or absorb, or both.

257259. "Specified month schedule" for the purposes of the "Annual Submission of ADEM Form 8700-12" is defined by the chart below according to the county in which the facility is located.

If your site of waste generation is located in the county of ...	Submit ADEM Form 8700-12 by the 15th 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

258260. "Spent materials" for the purposes of 335-14-2-.01 and 335-14-7 means those materials which have been used, and as a result of that use become contaminated by physical or chemical impurities, and can no longer serve the purpose for which they were produced without being regenerated, reclaimed, or otherwise reprocessed. For the purposes of 335-14-7, spent materials shall include all battery components, including but not limited to plates and groups, plastic and rubber battery chips, paper/cellulose materials and acid removed from a spent lead-acid battery.

(i) Contamination means any impurity, factor, or circumstance that causes the material to be taken out of service for reprocessing.

(ii) The portion of the definition stating a spent material "can no longer serve the purpose for which they were produced" is satisfied when the material is no longer serving its original purpose and is being reprocessed or being accumulated prior to reprocessing.

259261. "Spill" means the unplanned, accidental, or unpermitted discharge, deposit, injection, leaking, pumping, pouring, emitting, dumping, placing, or releasing of hazardous wastes, or materials which when spilled become hazardous wastes, into or on the land, the air, or the water.

~~260~~262. "Staging pile" means an accumulation of solid, non-flowing remediation waste (as defined in 335-14-1-.02) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Department according to the requirements of 335-14-5-.19(3).

~~264~~263. "State" means any of the United States except the State of Alabama.

~~262~~264. "Storage" means the actual or intended containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes.

~~263~~265. "Storage facility" means any facility or part of a facility at which hazardous waste is placed in storage, exclusive of transfer facilities where waste is stored for ten days or less and on-site storage by generators in compliance with 335-14-3-.03(5).

~~264~~266. "Storm event" means a 1-year, 24-hour storm event or rainfall which measures 1 inch or greater in 1 hour or less as determined by measurements taken at the facility, or the closest official weather monitoring station.

~~265~~267. "Substantial business relationship" means the extent of a business relationship necessary under applicable State of Alabama law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the owner or operator is demonstrated to the satisfaction of the Department.

~~266~~268. "Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

~~267~~269. "Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

~~268~~270. "SWMU corrective action facility" for the purposes of 335-14-5-.08 means a facility which is subject to the requirements of 335-14-5-.06(12) for the corrective action of Solid Waste Management Units, and has been issued a permit or an enforceable document (as defined in 335-14-8-.01(1)(c)7.) in accordance with 335-14-8 or an order pursuant to Section 3008(h) of RCRA.

269271. "Tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

270272. "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

271273. "Teaching hospital" for the purposes of 335-14-3-.12 means a hospital that trains students to become physicians, nurses or other health or laboratory personnel.

272274. "TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

273275. "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

274276. "Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of 335-14-11-.02(4)(c)2. or 335-14-11-.03(4)(c)2.

275277. "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized. An owner or operator who removes hazardous waste from a totally enclosed treatment system must comply with the applicable standards set forth in 335-14-3 with respect to any hazardous waste removed from the totally enclosed treatment facility. An owner or operator who removes hazardous waste from a totally enclosed treatment facility may not reintroduce the waste into the totally enclosed treatment facility unless the owner/operator has first complied with the applicable standards and permit requirements set forth in 335-14-5, 335-14-6, 335-14-8, and 335-14-9.

276278. "Trade secret" includes, but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound or procedure, as well as production data or compilation of information, financial and marketing data, which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article of trade or a service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know of it.

277279. "Trained professional" for the purposes of 335-14-3-.12 means a person who has completed the applicable RCRA training requirements of

335-14-6-.02(7) for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance with 335-14-3-.03(5)(d)6.(iii) for small quantity generators and conditionally-exempt small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

278280. "Transboundary movement" for the purposes of 335-14-3-.09 means any movement of wastes from an area under the national jurisdiction of one OECD Member country to an area under the national jurisdiction of another OECD Member country.

279281. "Transfer facility" means any transportation-related facilities including loading docks, parking areas, storage areas, and other related areas where shipments of hazardous waste or hazardous secondary materials are held for more than 24 hours and not longer than 10 days during the normal course of transportation. Transfer facilities that store hazardous waste for more than 10 days are subject to regulation as a storage facility under 335-14-5, 335-14-6, 335-14-8, and 335-14-9.

280282. "Transit country" for the purposes of 335-14-3-.05 means any foreign country, other than a receiving country, through which a hazardous waste is transported.

281283. "Transport vehicle" means a motor vehicle or railcar used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

282284. "Transportation" means the movement of wastes from the point of generation to any intermediate transfer points, and finally to the disposal site.

283285. "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

284286. "Treatability study" means a study in which a hazardous waste is subjected to a treatment process to determine: [1] whether the waste is amenable to the treatment process, [2] what pretreatment (if any) is required, [3] the optimal process conditions needed to achieve the desired treatment, [4] the efficiency of a treatment process for a specific waste or wastes, or [5] the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of 335-14-2-.01(4)(e) and (f) exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

285287. "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to render such waste non-hazardous or less hazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous or less hazardous.

~~286~~288. "Treatment facility" means a location at which wastes are subjected to treatment, and may include a facility where waste has been generated.

~~287~~289. "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed or immobilized.

~~288~~290. "Underground injection" means the injection of pollutants through a bored, drilled or driven shaft or dug hole.

~~289~~291. "Underground source of drinking water" or "USDW" for the purposes of 335-14-8 means an aquifer or its portion:

- (i)(I) Which supplies any public water system; or
- (II) Which contains a sufficient quantity of groundwater to supply a public water system; and
- (III) Currently supplies drinking water for human consumption; or
- (IV) Contains fewer than 10,000 mg/liter total dissolved solids; and
- (ii) Which is not an exempted aquifer.

~~290~~292. "Underground tank" means a device meeting the definition of "tank" in 335-14-1-.02 whose entire surface area is totally below the surface of and covered by the ground.

~~291~~293. "Unexploded ordnance (UXO)" for the purposes of 335-14-7-.13 means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

~~292~~294. "Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

~~293~~295. "Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of 335-14-11:

- (i) Batteries as described in 335-14-11-.01(2);
 - (ii) Pesticides as described in 335-14-11-.01(3);
 - (iii) Mercury-containing equipment as described in 335-14-11-.01(4);
 - (iv) Lamps as described in 335-14-11-.01(5).
- and

294296. "Universal waste handler":

(i) Means:

(I) A generator (as defined in 335-14-1-.02) of universal waste; or

(II) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(ii) Does not mean:

(I) A person who treats [except under the provisions of 335-14-8-.01(1)(c)2.(ix), 335-14-11-.02(4)(a) or (c) and 335-14-11-.03(4)(a) or (c)], disposes of, or recycles universal waste; or

(II) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

295297. "Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

296298. "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

297299. "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

298300. "Unwanted material" for the purposes of 335-14-3-.12 means any chemical, mixtures of chemicals, products of experiments or other material from a laboratory that is no longer needed, wanted or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to 335-14-2-.01(2), or a hazardous waste pursuant to 335-14-2-.01(3). If an eligible academic entity elects to use another equally effective term in lieu of "unwanted material," as allowed by 335-14-3-.12(7)(a)1.(i), the equally effective term has the same meaning and is subject to the same requirements as "unwanted material".

299301. "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

300302. "Used" or "reused" for the purposes of 335-14-2-.01 a material is used or reused if it is either:

(i) Employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

(ii) Employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

~~304~~303. "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use, is contaminated by physical or chemical impurities.

~~302~~304. "Used oil aggregation point" means any site or facility that accepts, aggregates, and/or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which oil is transported to the aggregation point in shipments of no more than 55 gallons. Used oil aggregation points may also accept used oil from household do-it-yourselfers.

~~303~~305. "Used oil burner" means a facility where used oil not meeting the specification requirements in 335-14-17-.02(2) is burned for energy recovery in devices identified in 335-14-17-.07(2)(a).

~~304~~306. "Used oil collection center" means any site or facility that is recognized by the Department, in accordance with 335-14-17-.04(2)(b) and accepts/aggregates and stores used oil collected from used oil generators regulated under 335-14-17-.03 who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of 335-14-17-.03(6). Used oil collection centers may also accept used oil from household do-it-yourselfers.

~~305~~307. "Used oil fuel marketer" means any person who conducts either of the following activities:

(i) Directs a shipment of off-specification used oil from their facility to a used oil burner; or

(ii) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in 335-14-17-.02(2).

~~306~~308. "Used oil generator" means 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.

~~307~~309. "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.

308310. "Used oil processor/re-refiner" means a facility that processes used oil.

309311. "Used oil tank" means any stationary device, designed to contain an accumulation of used oil which is constructed primarily of non-earthen materials, (e.g., wood, concrete, steel, plastic) which provides structural support.

310312. "Used oil transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to 335-14-17-.03(1)(b)2. Transfer facilities that store used oil for more than 35 days are subject to regulation under 335-14-17-.06.

311313. "Used oil transporter" means any person who transports used oil, any person who collects used oil from more than one generator and transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. 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 or used oil fuel.

314. "User of the electronic manifest system" means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that:

(i) Is required to use a manifest to comply with:

(I) Any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or

(II) Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

(ii) Elects to use the system to obtain, complete and transmit an electronic manifest format supplied by the EPA electronic manifest system, or

(iii) Elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with 335-14-5-.05(2)(a)1.(v) or 335-14-6-.05(2)(a)1.(v). These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

312315. "Vessel" means every description of watercraft, used or capable of being used as a means of transportation on the water.

313316. "Waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, including any material to be discarded by a generator, but such term does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under 33 U.S.C. §1342 or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954.

314317. "Waste stream" for the purposes of 335-14-3-.08 means a waste of given characteristics that is unique to a particular process or individual generation site.

315318. "Wastewater treatment unit" means a device which:

(i) Is part of a wastewater treatment facility that is subject to regulation under either Section 402 or 307(b) of the Clean Water Act; and

(ii) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in 335-14-2-.01(3), or that generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in 335-14-2-.01(3), or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in 335-14-2-.01(3); and

(iii) Meets the definition of tank or tank system in 335-14-1-.02.

316319. "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

317320. "Week" means a calendar week (e.g., Sunday-Saturday).

318321. "Weekly" means once during each calendar week.

319322. "Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

320323. "Well injection" means "underground injection".

321324. "Wipe" means a woven or non woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

322325. "Working container" for the purposes of 335-14-3-.12 means a small container (i.e., two gallons or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

323326. "Working day" for the purposes of 335-14-3-.08 means any day, Monday through Friday, on which the offices of the Alabama Department of Environmental Management are open for business, and shall not include weekends or any State of Alabama observed holiday.

324327. "Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

325328. The following terms are used in the specifications for the financial tests for closure, post-closure care, and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

(i) "Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

(ii) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(iii) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(iv) "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR §144.62(a), (b), and (c) or any State equivalent.

(v) "Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

(vi) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(vii) "Net working capital" means current assets minus current liabilities.

(viii) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(ix) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

326329. In the liability insurance requirements the terms "bodily injury" and "property damage" shall have the meanings given these terms by applicable State of Alabama law. However, these terms do not include those liabilities which, consistent with standard industry practice, are excluded from coverage in liability policies for bodily injury and property damage. The Department intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

(i) "Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

(ii) "Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

(iii) "Nonsudden accidental occurrence" means an occurrence which takes place over time and involves continuous or repeated exposure.

(iv) "Sudden accidental occurrence" means an occurrence which is not continuous or repeated in nature.

(2) References.

The Environmental Protection Agency Regulations as they exist as set forth in 40 CFR, Section § 260.11 (as published on June 14, 2005, and as amended on September 8, 2005; October 12, 2005; July 18, 2007; and May 18, 2012) are incorporated herein by reference.

A list of the publications and analytical testing methods incorporated by reference are available for purchase and inspection at the Department's offices at 1400 Coliseum Boulevard, Montgomery, Alabama 36110-2059.

Authors: Stephen C. Maurer; Stephen A. Cobb; Steven O. Jenkins; Robert W. Barr; Lynn T. Roper; Edwin C. Johnston; Kelley Lockhart; Vernon H. Crockett; Bradley N. Curvin; Theresa A. Maines; Heather M. Jones; Corey S. Holmes; Metz P. Duites

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