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## Subpart A - Definitions

### Section 279.1 Definitions

Terms that are defined in §§260.10, 261.1 of these regulations, and Part A, Section 2 of ***Delaware Regulations Governing Underground Storage Tanks*** have the same meanings when used in this part.

**"Aboveground tank"** means a tank used to store or process used oil that is not an underground storage tank as defined in Part A, Section 2 of ***Delaware Regulations Governing Underground Storage Tanks*** (UST).

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

**"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.

**"Existing 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 the authorized used oil program for the State in which the tank is located. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin installation of the tank and if either:

- (1) A continuous on-site installation program has begun, or
- (2) 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.

**"Household 'do-it-yourselfer' used oil"** means oil that is derived from households, such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles.

**"Household 'do-it-yourselfer' used oil generator"** means an individual who generates household "do-it-yourselfer" used oil.

**"New tank"** means a tank that will be used to store or process used oil and for which installation has commenced after the effective date of the authorized used oil program for the State in which the tank is located.

**"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).

**"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 product. 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.

**"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.

**"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.

**"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.

**"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 used 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.

**"Used oil burner"** means a facility where used oil not meeting the specification requirements in §279.11 is burned for energy recovery in devices identified in §279.61(a).

**"Used oil collection center"** means any site or facility that is registered/licensed/permitted/recognized by a state/county/municipal government to manage used oil and accepts/aggregates and stores used oil collected from used oil generators regulated under Subpart C of this part who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of §279.24. Used oil collection centers may also accept used oil from household do-it-yourselfers.

**"Used oil fuel marketer"** means any person who conducts either of the following activities:

- (1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or
- (2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in §279.11 of this part.

**"Used oil generator"** means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

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

**"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 §279.20(b)(2). Transfer facilities that store used oil for more than 35 days are subject to regulation under Subpart F of this part.

**"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 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.

(Amended July 23, 1996)

## **Subpart B - Applicability**

### **Section 279.10 Applicability.**

This section identifies those materials which are subject to regulation as used oil under this part. This section also identifies some materials that are not subject to regulation as used oil under this part, and indicates whether these materials may be subject to regulation as hazardous waste under Parts 260 through 266, 268, 122, and 124 of these regulations.

(a) Used oil. DNREC presumes that used oil is to be recycled unless a used oil handler disposes of used oil, or sends used oil for disposal. Except as provided in §279.11, the regulations of this part apply to used oil, and to materials identified in this section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in Subpart C of Part 261 of these regulations.

(b) Mixtures of used oil and hazardous waste

(1) Listed hazardous waste.

(i) Mixtures of used oil and hazardous waste that is listed in Subpart D of Part 261 of these regulations are subject to regulation as hazardous waste under Parts 260 through 266, 268, 122, and 124 of these regulations, rather than as used oil under this part.

(ii) Rebuttable presumption for used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of Part 261 of these regulations. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of Part 261 of these regulations). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, (202) 783-3238 (document number 955-001-00000-1).

(A) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described §279.24(c), to reclaim metalworking oils/fluids. The presumption does apply to metal working oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

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

(2) Characteristic hazardous waste. Mixing of used oil and hazardous waste that solely exhibit one or more hazardous waste characteristics identified in Subpart C of Part 261 are prohibited. Such incidental mixtures are subject to regulation as hazardous waste under Parts 260 through 266, 268, 122 and 124 of these regulations.

(3) Conditionally exempt small quantity generator hazardous waste. Mixing of used oil and conditionally exempt small quantity generator hazardous waste regulated under §261.5 of these regulations is prohibited.

Such incidental mixtures are subject to regulation as hazardous waste under Parts 260 through 266, 268, 122 and 124 of these regulations.

(c) Materials containing or otherwise contaminated with used oil.

(1) Except as provided in paragraph (c)(2) of this section, materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material:

(i) Are not used oil and thus not subject to this part, and

(ii) If applicable are subject to the hazardous waste regulations of Parts 124, 260 through 266, 268, and 122 of these regulations.

(2) Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this part.

(3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this part.

(d) Mixtures of used oil with products.

(1) Except as provided in paragraph (d)(2) of this section, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this part.

(2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C of this part.

(e) Materials derived from used oil.

(1) Materials that are reclaimed from used oil that are used beneficially and are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants) are:

(i) Not used oil and thus are not subject to this part, and

(ii) Not solid wastes and are thus not subject to the hazardous waste regulations of Parts 260 through 266, 268, 122, and 124 of these regulations as provided in §261.3(c)(2)(i) of these regulations.

(2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this part.

(3) Except as provided in paragraph (e)(4) of this section, materials derived from used oil that are disposed of or used in a manner constituting disposal are:

(i) Not used oil and thus are not subject to this part, and

(ii) Are solid wastes and thus are subject to the hazardous waste regulations of Parts 260 through 266, 268, 122, and 124 of these regulations if the materials are listed or identified as hazardous waste.

(4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this part.

(f) Wastewater. Wastewater, the discharge of which is subject to regulation under either §402 or §307(b) of the Clean Water Act (including wastewaters at facilities which have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this part. For purposes of this paragraph, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

(g) Used oil introduced into crude oil pipelines or a petroleum refining facility.

(1) Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this part. The used oil is subject to the requirements of this part prior to the mixing of used oil with crude oil or natural gas liquids.

(2) Mixtures of used oil and crude oil or natural gas liquids containing less than 1% used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining

process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this part.

(3) Used oil that is inserted into the petroleum refining facility process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this part provided that the used oil constitutes less than 1% of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this part.

(4) Except as provided in paragraph (g)(5) of this section, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this part only if the used oil meets the specification of §279.11. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this part.

(5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this part. This exemption does not extend to used oil which is intentionally introduced into a hydrocarbon recovery system (e.g., by pouring collected used oil into the waste water treatment system).

(6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this part.

(h) Used oil on vessels. Used oil produced on vessels from normal shipboard operations is not subject to this part until it is transported ashore.

(i) Used oil containing PCBs. In addition to the requirements of Part 279, marketers and burners of used oil who market used oil containing any quantifiable level of PCBs are subject to the requirements found at 40 CFR 761.20(e).

(Amended July 23, 1996, August 21, 1997)

#### **Section 279.11 Used oil specifications.**

Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this part unless it is shown not to exceed any of the allowable levels of the constituents and properties shown in Table 1. Once used oil that is to be burned for energy recovery has been shown not to exceed any allowable level and the person making that showing complies with §§279.72, 279.73, and 279.74(b), the used oil is no longer subject to this part.

**Table 1 - Used Oil Not Exceeding Any Allowable Level Shown Below Is Not Subject to This Part When Burned for Energy Recovery<sup>1</sup>**

<b>Constituent/property</b>	<b>Allowable level</b>
Arsenic	5 ppm maximum.
Cadmium	2 ppm maximum.
Chromium	10 ppm maximum.
Lead	100 ppm maximum.
Flash point	100 °F minimum.
Total halogens	4,000 ppm maximum. <sup>2</sup>

FOOTNOTE: <sup>1</sup>The allowable levels do not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (see §279.10(b)).

FOOTNOTE: <sup>2</sup>Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under §279.10(b)(1). Such used oil is subject to Subpart H of Part 266 of these regulations rather than this part when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

NOTE: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).  
(Amended February 12, 2004)

### **Section 279.12 Prohibitions.**

(a) Surface impoundment prohibition. Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under Parts 264 or 265 of these regulations.

(b) Use as a dust suppressant. The use of used oil as a dust suppressant is prohibited.

(c) Burning in particular units. Off-specification used oil fuel may be burned for energy recovery in only the following devices:

(1) Industrial furnaces identified in §260.10 of these regulations;

(2) Boilers, as defined in §260.10 of these regulations, that are identified as follows:

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

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

(iii) Used oil-fired space heaters provided that the burner meets the provisions of §279.23.

(3) Hazardous waste incinerators subject to regulation under Subpart O of Parts 264 or 265 of these regulations.

### **Subpart C - Standards for Used Oil Generators**

#### **Section 279.20 Applicability.**

(a) General. Except as provided in paragraphs (a)(1) through (a)(4) of this section, this subpart applies to all used oil generators. A used oil generator is any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

(1) Household "do-it-yourselfer" used oil generators. Household "do-it-yourselfer" used oil generators are not subject to regulation under this part.

(2) Vessels. Vessels at sea or at port are not subject to this subpart. For purposes of this subpart, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the person(s) removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this subpart once the used oil is transported ashore. The co-generators may decide among them which party will fulfill the requirements of this subpart.

(3) Diesel fuel. Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator's own vehicles are not subject to this part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this subpart.

(4) Farmers. Farmers who generate an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this part.

(b) Other applicable provisions. Used oil generators who conduct the following activities are subject to the requirements of other applicable provisions of this part as indicated in paragraphs (b)(1) through (5) of this section:

(1) Generators who transport used oil, except under the self-transport provisions of §279.24 (a) and (b), must also comply with Subpart E of this part.

(2)(i) Except as provided in paragraph (b)(2)(ii) of this section, generators who process or re-refine used oil must also comply with Subpart F of this part.

(ii) Generators who perform the following activities are not processors provided that the used oil is generated on-site and is not being sent off-site to a burner of on- or off-specification used oil fuel.

(A) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;

(B) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to Section 402 or Section 307(b) of the Clean Water Act or other applicable Federal or state regulations governing the management or discharge of wastewaters;

(C) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;

(D) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to §279.10(c); or

(E) Filtering, separating or otherwise reconditioning used oil before burning it in a space heater pursuant to §279.23.

(3) Generators who burn off-specification used oil for energy recovery, except under the on-site space heater provisions of §279.23, must also comply with Subpart G of this part.

(4) Generators who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in §279.11 must also comply with Subpart H of this part.

(5) Generators who dispose of used oil must also comply with Subpart I of this part.

(Amended July 23, 1996)

### **Section 279.21 Hazardous waste mixing.**

(a) **[Reserved].**

(b) The rebuttable presumption for used oil of §279.10(b)(1)(ii) applies to used oil managed by generators. Under the rebuttable presumption for used oil of §279.10(b)(1)(ii), used oil containing greater than 1,000 ppm total halogens is presumed to be a hazardous waste and thus must be managed as hazardous waste and not as used oil unless the presumption is rebutted. However, the rebuttable presumption does not apply to certain metalworking oils/fluids and certain used oils removed from refrigeration units.

(Amended August 21, 1997)

### **Section 279.22 Used oil storage.**

Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of this subpart. Used oil generators are also subject to the ***Delaware Regulations Governing Underground Storage Tanks*** (UST) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

(a) Storage units. Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under Parts 264 or 265 of these regulations.

(b) Condition of units. Containers and aboveground tanks used to store used oil at generator facilities must be:

- (1) In good condition (no severe rusting, apparent structural defects or deterioration); and
- (2) Not leaking (no visible leaks); and
- (3) Closed during storage, except when it is necessary to add or remove oil.

(c) Labels.

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

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

(d) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the requirements of the ***Delaware Regulations Governing Underground Storage Tanks*** (UST) and which has occurred after the effective date of Delaware's recycled used oil management program, a generator must perform the following cleanup steps:

- (1) Stop the release;
- (2) Contain the released used oil;
- (3) Clean up and manage properly the released used oil and other materials; and
- (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to

returning them to service.

(Amended August 21, 1997, August 23, 1999, August 21, 2006, December 21, 2009)

**11 DE Reg. 809 (12/01/07)**

### **Section 279.23 On-site burning in space heaters.**



Generators may burn used oil in used oil-fired space heaters provided that:

- (a) The heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators;
- (b) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and
- (c) The combustion gases from the heater are vented to the ambient air.

#### **Section 279.24 Off-site shipments.**

Except as provided in paragraphs (a) through (c) of this section, generators must ensure that their used oil is transported only by transporters who have obtained EPA identification numbers and a Delaware Waste Transporter Permit.

(a) Self-transportation of small amounts to approved collection centers. Generators may transport, without an EPA identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that:

- (1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
- (2) The generator transports no more than 55 gallons of used oil at any time; and
- (3) The generator transports the used oil to a used oil collection center that is authorized by the state to manage used oil.

(b) Self-transportation of small amounts to aggregation points owned by the generator. Generators may transport, without an EPA identification number, used oil that is generated at the generator's site to an aggregation point provided that:

- (1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
- (2) The generator transports no more than 55 gallons of used oil at any time; and
- (3) The generator transports the used oil to an aggregation point that is owned and/or operated by the same generator.

(c) Tolling Agreements. Used oil generators may arrange for used oil to be transported by a transporter without an identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor/re-refiner to the generator for use as lubricant, cutting oil, or coolant. The contract (known as a "tolling agreement") must indicate:

- (1) The type of used oil and the frequency of shipments;
- (2) That the vehicle used to transport the used oil to the processor/re-refining facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor/re-refiner; and
- (3) That reclaimed oil will be returned to the generator.

(Amended August 21, 1997)

### **Subpart D - Standards for Used Oil Collection Centers and Aggregation Points**

#### **Section 279.30 Do-it-yourselfer used oil collection centers.**

(a) Applicability. This section applies to owners or operators of all do-it-yourselfer (DIY) used oil collection centers. A DIY used oil collection center is any site or facility that accepts/aggregates and stores used oil collected only from household do-it-yourselfers.

(b) DIY used oil collection center requirements. Owners or operators of all DIY used oil collection centers must comply with the generator standards in Subpart C of this part.

#### **Section 279.31 Used oil collection centers.**

(a) Applicability. This section applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that accepts/aggregates and stores used oil collected from used oil generators regulated under Subpart C of this part who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of §279.24(a). Used oil collection centers may also accept used oil from household do-it-yourselfers.

(b) Used oil collection center requirements. Owners or operators of all used oil collection centers must:

- (1) Comply with the generator standards in Subpart C of this part; and
  - (2) Be authorized by the state to manage used oil.
- (Amended August 21, 1997)

#### **Section 279.32 Used oil aggregation points owned by the generator.**

(a) Applicability. This section applies to owners or operators of all used oil aggregation points. A used oil aggregation point is 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 used oil is transported to the aggregation point in shipments of no more than 55 gallons under the provisions of §279.24(b). Used oil aggregation points may also accept used oil from household do-it-yourselfers.

(b) Used oil aggregation point requirements. Owners or operators of all used oil aggregation points must comply with the generator standards in Subpart C of this part.

### **Subpart E - Standards for Used Oil Transporter and Transfer Facilities**

#### **Section 279.40 Applicability.**

(a) General. Except as provided in paragraphs (a)(1) through (a)(4) of this section, this subpart applies to all used oil transporters. Used oil transporters are persons who transport used oil, persons who collect used oil from more than one generator and transport the collected oil, and owners and operators of used oil transfer facilities.

(1) This subpart does not apply to on-site transportation.

(2) This subpart does not apply to generators who transport shipments of used oil totaling 55 gallons or less from the generator to a used oil collection center as specified in §279.24(a).

(3) This subpart does not apply to generators who transport shipments of used oil totaling 55 gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in §279.24(b).

(4) This subpart does not apply to transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor/re-refiner, or burner subject to the requirements of this part. Except as provided in paragraphs (a)(1) through (a)(3) of this section, this subpart does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.

(b) Imports and exports. Transporters who import used oil from abroad or export used oil outside of the United States are subject to the requirements of this subpart from the time the used oil enters and until the time it exits the United States.

(c) Trucks used to transport hazardous waste. Unless trucks previously used to transport hazardous waste are emptied as described in §261.7 of these regulations prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and must be managed as hazardous waste unless, under the provisions of §279.10(b), the hazardous waste/used oil mixture is determined not to be hazardous waste.

(d) Other applicable provisions. Used oil transporters who conduct the following activities are also subject to other applicable provisions of this part as indicated in paragraphs (d)(1) through (6) of this section:

(1) Transporters who generate used oil must also comply with Subpart C of this part;

(2) Transporters who process or re-refine used oil, except as provided in §279.41, must also comply with Subpart F of this part;

(3) Transporters who burn off-specification used oil for energy recovery must also comply with Subpart G of this part;

(4) Transporters who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in §279.11 must also comply with Subpart H of this part; and

(5) Transporters who dispose of used oil must also comply with Subpart I of this part.

(6) Transporters of used oil must also comply with Part 263 of these regulations

(Amended December 21, 2009)

#### **Section 279.41 Restrictions on transporters who are not also processors or re-refiners.**

(a) Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in paragraph (b) of this section, used oil transporters may not process used oil unless they also comply with the requirements for processors/re-refiners in Subpart F of this part.

(b) Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products unless they also comply with the processor/re-refiner requirements in Subpart F of this part.

(c) Transporters of used oil that is removed from oil bearing electrical transformers and turbines and filtered by the transporter or at a transfer facility prior to being returned to its original use are not subject to the processor/re-refiner requirements in Subpart F of this part.

(Amended July 23, 1996)

#### **Section 279.42 Notification.**

(a) Identification numbers. Used oil transporters who have not previously complied with the notification requirements of 7 Del.C., §6304(a) must comply with these requirements and obtain an EPA identification number.

(b) Mechanics of notification. A used oil transporter who has not received an EPA identification number may obtain one by notifying the Secretary of their used oil activity by submitting a completed "State of Delaware Notification of Regulated Waste Activity Form" (8700-12).

(Amended February 12, 2004)

#### **Section 279.43 Used oil transportation.**

(a) Deliveries. A used oil transporter must deliver all used oil received to:

(1) Another used oil transporter, provided that the transporter has obtained an EPA identification number, and a Delaware Waste Transporter permit;

(2) A used oil processing/re-refining facility who has obtained an EPA identification number;

(3) An off-specification used oil burner facility who has obtained an EPA identification number; or

(4) An on-specification used oil burner facility.

(b) DOT Requirements. Used oil transporters must comply with all applicable requirements under the U.S. Department of Transportation regulations in 49 CFR Parts 171 through 180. Persons transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8 must comply with all applicable regulations in 49 CFR Parts 171 through 180.

(c) Used oil discharges.

(1) In the event of a discharge of used oil during transportation, the transporter must take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).

(2) If a discharge of used oil occurs during transportation and an official (State or local government or a Federal Agency) acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, that official may authorize the removal of the used oil by transporters who do not have EPA identification numbers.

(3) An air, rail, highway, or water transporter who has discharged used oil must:

(i) Give notice, if required by 49 CFR 171.15, to the National Response Center (800-424-8802 or 202-426-2675), and give notice as required by Delaware regulations **Reporting of a Discharge of a Pollutant or Air Contaminant** to DNREC ((800) 662-8802 or (302) 739-4580); and

(ii) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.

(4) A water transporter who has discharged used oil must give notice as required by 33 CFR 153.203.

(5) A transporter must clean up any used oil discharge that occurs during transportation or take such action as may be required or approved by federal, state, or local officials so that the used oil discharge no longer presents a hazard to human health or the environment.

#### **Section 279.44 Rebuttable presumption for used oil.**

(a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of §279.10(b)(1)(ii), the used oil transporter must determine whether the total halogen content of used oil being transported or stored at a transfer facility is above or below 1,000 ppm.

(b) The transporter must make this determination by:

(1) Testing the used oil; or

(2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of Part 261 of these regulations. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of Part 261 of these regulations). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. (202) 783-3238 (Document Number 955-001-00000-1).

(1) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in §279.24(c), to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

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

(d) Record retention. Records of analyses conducted or information used to comply with paragraphs (a), (b), and (c) of this section must be maintained by the transporter for at least 3 years.

(Amended July 23, 1996)

#### **Section 279.45 Used oil storage at transfer facilities.**

Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of this subpart. Used oil transporters are also subject to the standards in ***Delaware Regulations for Underground Storage Tanks*** (UST) for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

(a) Applicability. This section applies to used oil transfer facilities. Used oil transfer facilities are transportation related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days are subject to regulation under Subpart F of these regulations.

(b) Storage units. Owners or operators of used oil transfer facilities may not store used oil in units other than tanks, containers, or units subject to regulation under Parts 264 or 265 of these regulations.

(c) Condition of units. Containers and aboveground tanks used to store used oil at transfer facilities must be:

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

(2) Not leaking (no visible leaks).

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

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

(i) Dikes, berms or retaining walls; and

(ii) A floor. The floor must cover the entire area within the dikes, berms, or retaining walls; or

(iii) An equivalent secondary containment system.

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

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

- (1) The secondary containment system must consist of, at a minimum:
    - (i) Dikes, berms or retaining walls; and
    - (ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
    - (iii) An equivalent secondary containment system.
  - (2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
  - (f) Secondary containment for new aboveground tanks. New aboveground tanks used to store used oil at transfer facilities must be equipped with a secondary containment system.
    - (1) The secondary containment system must consist of, at a minimum:
      - (i) Dikes, berms or retaining walls; and
      - (ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
      - (iii) An equivalent secondary containment system.
    - (2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
  - (g) Labels.
    - (1) Containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil."
    - (2) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities must be labeled or marked clearly with the words "Used Oil."
  - (h) ) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the requirements of the **Delaware Regulations Governing Underground Storage Tanks** (UST) and which has occurred after the effective date of Delaware's recycled used oil management program, the owner/operator of a transfer facility must perform the following cleanup steps:
    - (1) Stop the release;
    - (2) Contain the released used oil;
    - (3) Clean up and manage properly the released used oil and other materials; and
    - (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.
- (Amended August 1, 1995, August 21, 1997, August 23, 1999)

#### **Section 279.46 Tracking.**

- (a) Acceptance. Used oil transporters must keep a record of each used oil shipment accepted for transport. Records for each shipment must include:
  - (1) The name and address of the generator, transporter, or processor/re-refiner who provided the used oil for transport;
  - (2) The EPA identification number (if applicable) of the generator, transporter, or processor/re-refiner who provided the used oil for transport;
  - (3) The quantity of used oil accepted;
  - (4) The date of acceptance; and
  - (5)(i) Except as provided in paragraph (a)(5)(ii) of this section, the signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor/re-refiner who provided the used oil for transport.
  - (ii) Intermediate rail transporters are not required to sign the record of acceptance.
- (b) Deliveries. Used oil transporters must keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor/re-refiner, or disposal facility. Records of each delivery must include:
  - (1) The name and address of the receiving facility or transporter;
  - (2) The EPA identification number of the receiving facility or transporter;
  - (3) The quantity of used oil delivered;
  - (4) The date of delivery;
  - (5)(i) Except as provided in paragraph (b)(5)(ii) of this section, the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.

- (ii) Intermediate rail transporters are not required to sign the record of delivery.
  - (c) Exports of used oil. Used oil transporters must maintain the records described in paragraphs (b)(1) through (b)(4) of this section for each shipment of used oil exported to any foreign country.
  - (d) Record retention. The records described in paragraphs (a), (b), and (c) of this section must be maintained for at least three years.
- (Amended July 23, 1996)

#### **Section 279.47 Management of residues.**

Transporters who generate residues from the storage or transport of used oil must manage the residues as specified in §279.10(e).

### **Subpart F - Standards for Used Oil Processors and Re-Refiners**

#### **Section 279.50 Applicability.**

(a) The requirements of this subpart apply to owners and operators of facilities that process 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. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining. The requirements of this subpart do not apply to:

(1) Transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in §279.41; or

(2) Burners that conduct incidental processing operations that occur during the normal course of used oil management prior to burning as provided in §279.61(b).

(b) Other applicable provisions. Used oil processors/re-refiners who conduct the following activities are also subject to the requirements of other applicable provisions of this part as indicated in paragraphs (b)(1) through (b)(5) of this section.

(1) Processors/re-refiners who generate used oil must also comply with Subpart C of this part;

(2) Processors/re-refiners who transport used oil must also comply with Subpart E of this part;

(3) Except as provided in paragraphs (b)(3)(i) and (b)(3)(ii) of this section, processors/re-refiners who burn off-specification used oil for energy recovery must also comply with subpart G of this part. Processor/re-

refiners burning used oil for energy recovery under the following conditions are not subject to Subpart G of this part:

(i) The used oil is burned in an on-site space heater that meets the requirements of §279.23; or

(ii) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;

(4) Processors/re-refiners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in §279.11 must also comply with Subpart H of this part; and

(5) Processors/re-refiners who dispose of used oil also must comply with Subpart I of this part.

#### **Section 279.51 Notification.**

(a) Identification numbers. Used oil processors and re-refiners who have not previously complied with the notification requirements of 7 Del.C., §6304(a) must comply with these requirements and obtain an EPA identification number.

(b) Mechanics of notification. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the Secretary of their used oil activity by submitting either:

(1) A completed "Delaware Notification of Regulated Waste Activity Form" (8700-12); or

(2) A letter requesting an EPA identification number. The letter should include the following information:

(i) Processor or re-refiner company name;

(ii) Owner of the processor or re-refiner company;

(iii) Mailing address for the processor or re-refiner;

- (iv) Name and telephone number for the processor or re-refiner point of contact;
- (v) Type of used oil activity (i.e., process only, process and re-refine);
- (vi) Location of the processor or re-refiner facility.

#### **Section 279.52 General facility standards.**

(a) Preparedness and prevention. Owners and operators of used oil processing and re-refining facilities must comply with the following requirements:

(1) Maintenance and operation of facility. Facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water which could threaten human health or the environment.

(2) Required equipment. All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in paragraphs (a)(2)(i) through (iv) of this section:

(i) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(ii) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

(iii) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment and decontamination equipment; and

(iv) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

(3) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(4) Access to communications or alarm system.

(i) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in paragraph (a)(2) of this section.

(ii) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in paragraph (a)(2) of this section.

(5) Required aisle space. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(6) Arrangements with local authorities.

(i) The owner or operator must attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

(A) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(B) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(C) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and

(D) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

(ii) Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

(b) Contingency plan and emergency procedures. Owners and operators of used oil processing and re-refining facilities must comply with the following requirements:

(1) Purpose and implementation of contingency plan.

(i) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.

(ii) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of used oil which could threaten human health or the environment.

(2) Content of contingency plan.

(i) The contingency plan must describe the actions facility personnel must take to comply with paragraphs (b) (1) and (6) of this section in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility.

(ii) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR Part 112, 40 CFR Part 1510, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this part.

(iii) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to paragraph (a)(6) of this section.

(iv) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see paragraph (b)(5) of this section), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

(v) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(vi) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires).

(3) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan must be:

(i) Maintained at the facility; and

(ii) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

(4) Amendment of contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever:

(i) Applicable regulations are revised;

(ii) The plan fails in an emergency;

(iii) The facility changes in its design, construction, operation, maintenance, or other circumstances in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;

(iv) The list of emergency coordinators changes; or

(v) The list of emergency equipment changes.

(5) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

**Guidance:** The emergency coordinator's responsibilities are more fully spelled out in paragraph (b)(6) of this section. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility.



(6) Emergency procedures.

(i) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately:

(A) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(B) Notify appropriate State or local agencies with designated response roles if their help is needed.

(ii) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. He may do this by observation or review of facility records or manifests and, if necessary, by chemical analyses.

(iii) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

(iv) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, he must report his findings as follows:

(A) If his assessment indicated that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and

(B) He must immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under 40 CFR Part 1510), or the National Response Center (using their 24-hour toll free number 800/424-8802), and give notice as required by Delaware regulations Reporting of a Discharge of a Pollutant or Air Contaminant to DNREC ((800) 662-8802 or (302) 739-4580). The report must include:

(1) Name and telephone number of reporter;

(2) Name and address of facility;

(3) Time and type of incident (e.g., release, fire);

(4) Name and quantity of material(s) involved, to the extent known;

(5) The extent of injuries, if any; and

(6) The possible hazards to human health, or the environment, outside the facility.

(v) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

(vi) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure build-up, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(vii) Immediately after an emergency, the emergency coordinator must provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(viii) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(A) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and

(B) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(C) The owner or operator must notify the Secretary, and appropriate State and local authorities that the facility is in compliance with paragraphs (b)(6)(viii)(A) and (B) of this section before operations are resumed in the affected area(s) of the facility.

(ix) The owner or operator must note in the operating record the time, date and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to the Secretary. The report must include:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

- (C) Date, time, and type of incident (e.g., fire, explosion);
  - (D) Name and quantity of material(s) involved;
  - (E) The extent of injuries, if any;
  - (F) An assessment of actual or potential hazards to human health or the environment, where this is applicable;
  - (G) Estimated quantity and disposition of recovered material that resulted from the incident.
- (Amended August 21, 1997)

### **Section 279.53 Rebuttable presumption for used oil.**

(a) To ensure that used oil managed at a processing/re-refining facility is not hazardous waste under the rebuttable presumption of §279.10(b)(1)(ii), the owner or operator of a used oil processing/re-refining facility must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

(b) The owner or operator must make this determination by:

(1) Testing the used oil; or

(2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of Part 261 of these regulations. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of Part 261 of these regulations). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh PA 15250-7954, (202) 783-3238 (Document Number 955-001-00000-1).

(1) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

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

(Amended July 23, 1996, August 21, 1997)

### **Section 279.54 Used oil management.**

Used oil processor/re-refiners are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of this subpart. Used oil processors/re-refiners are also subject to the **Delaware Regulations Governing Underground Storage Tanks (UST)** standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

(a) Management units. Used oil processors/re-refiners may not store used oil in units other than tanks, containers, or units subject to regulation under Part 264 or 265 of these regulations.

(b) Condition of units. Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities must be:

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

(2) Not leaking (no visible leaks).

(c) Secondary containment for containers. Containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

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

(i) Dikes, berms or retaining walls; and

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

(iii) An equivalent secondary containment system.

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

(d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

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

(i) Dikes, berms or retaining walls; and

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

(iii) An equivalent secondary containment system.

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

(e) Secondary containment for new aboveground tanks. New aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

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

(i) Dikes, berms or retaining walls; and

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

(iii) An equivalent secondary containment system.

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

(f) Labels.

(1) Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities must be labeled or marked clearly with the words "Used Oil."

(2) Fill pipes used to transfer used oil into underground storage tanks at processing and re-refining facilities must be labeled or marked clearly with the words "Used Oil."

(g) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the requirements of the **Delaware Regulations Governing Underground Storage Tanks** (UST) and which has occurred after the effective date of Delaware's recycled used oil management program, an owner/operator must perform the following cleanup steps:

(1) Stop the release;

(2) Contain the released used oil;

(3) Clean up and manage properly the released used oil and other materials; and

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

(h) Closure.

(1) Aboveground tanks. Owners and operators who store or process used oil in aboveground tanks must comply with the following requirements:

(i) At closure of a tank system, the owner or operator must remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under these regulations.

(ii) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in paragraph (h)(1)(i) of this section, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills (§265.310 of these regulations).

(2) Containers. Owners and operators who store used oil in containers must comply with the following requirements:

(i) At closure, containers holding used oils or residues of used oil must be removed from the site;

(ii) The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under Part 261 of these regulations.

(Amended August 1, 1995, August 21, 1997, August 23, 1999)

### Section 279.55 Analysis plan.

Owners or operators of used oil processing and re-refining facilities must develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of §279.53 and, if applicable, §279.72. The owner or operator must keep the plan at the facility.

(a) Rebuttable presumption for used oil in §279.53. At minimum, the plan must specify the following:

(1) Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination.

(2) If sample analyses are used to make this determination:

(i) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(A) One of the sampling methods in Appendix I of Part 261 of these regulations; or

(B) A method shown to be equivalent under §§260.20 and 260.21 of these regulations;

(ii) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

(iii) The methods used to analyze used oil for the parameters specified in §279.53; and

(3) The type of information that will be used to determine the halogen content of the used oil.

(b) On-specification used oil fuel in §279.72. At a minimum, the plan must specify the following if §279.72 is applicable:

(1) Whether sample analyses or other information will be used to make this determination;

(2) If sample analyses are used to make this determination:

(i) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(A) One of the sampling methods in Appendix I of Part 261 of these regulations; or

(B) A method shown to be equivalent under §§260.20 and 260.21 of these regulations;

(ii) Whether used oil will be sampled and analyzed prior to or after any processing/re-refining;

(iii) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

(iv) The methods used to analyze used oil for the parameters specified in §279.72; and

(3) The type of information that will be used to make the on-specification used oil fuel determination.

### Section 279.56 Tracking.

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

(1) The name and address of the transporter who delivered the used oil to the processor/re-refiner;

(2) The name and address of the generator or processor/re-refiner from whom the used oil was sent for processing/re-refining;

(3) The EPA identification number of the transporter who delivered the used oil to the processor/re-refiner;

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

(5) The quantity of used oil accepted; and

(6) The date of acceptance.

(b) Delivery. Used oil processor/re-refiners must keep a record of each shipment of used oil that is shipped to a used oil burner, processor/ re-refiner, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

(1) The name and address of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

(2) The name and address of the burner, processor/re-refiner or disposal facility who will receive the used oil;

(3) The EPA identification number of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

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(ii) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in paragraph (h)(1)(i) of this section, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills (§265.310 of these regulations).

(2) Containers. Owners and operators who store used oil in containers must comply with the following requirements:

(i) At closure, containers holding used oils or residues of used oil must be removed from the site;

(ii) The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under Part 261 of these regulations.

(Amended August 1, 1995, August 21, 1997, August 23, 1999)

**15 DE REG. 862 (12/01/11)**

### Section 279.55 Analysis plan.

Owners or operators of used oil processing and re-refining facilities must develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of §279.53 and, if applicable, §279.72. The owner or operator must keep the plan at the facility.

(a) Rebuttable presumption for used oil in §279.53. At minimum, the plan must specify the following:

(1) Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination.

(2) If sample analyses are used to make this determination:

(i) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(A) One of the sampling methods in Appendix I of Part 261 of these regulations; or

(B) A method shown to be equivalent under §§260.20 and 260.21 of these regulations;

(ii) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

(iii) The methods used to analyze used oil for the parameters specified in §279.53; and

(3) The type of information that will be used to determine the halogen content of the used oil.

(b) On-specification used oil fuel in §279.72. At a minimum, the plan must specify the following if §279.72 is applicable:

(1) Whether sample analyses or other information will be used to make this determination;

(2) If sample analyses are used to make this determination:

(i) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(A) One of the sampling methods in Appendix I of Part 261 of these regulations; or

(B) A method shown to be equivalent under §§260.20 and 260.21 of these regulations; —

(ii) Whether used oil will be sampled and analyzed prior to or after any processing/re-refining;

(iii) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

(iv) The methods used to analyze used oil for the parameters specified in §279.72; and

(3) The type of information that will be used to make the on-specification used oil fuel determination.

### Section 279.56 Tracking.

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

(1) The name and address of the transporter who delivered the used oil to the processor/re-refiner;

(2) The name and address of the generator or processor/re-refiner from whom the used oil was sent for processing/re-refining;

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(3) The EPA identification number of the transporter who delivered the used oil to the processor/re-refiner;

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

(5) The quantity of used oil accepted; and

(6) The date of acceptance.

(b) Delivery. Used oil processor/re-refiners must keep a record of each shipment of used oil that is shipped to a used oil burner, processor/ re-refiner, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

(1) The name and address of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

(2) The name and address of the burner, processor/re-refiner or disposal facility who will receive the used oil;

(3) The EPA identification number of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

(4) The EPA identification number of the burner, processor/re-refiner, or disposal facility who will receive the used oil;

(5) The quantity of used oil shipped; and

(6) The date of shipment.

(c) Record retention. The records described in paragraphs (a) and (b) of this section must be maintained for at least three years.

### **Section 279.57 Operating record and reporting.**

(a) Operating record.

(1) The owner or operator must keep a written operating record at the facility.

(2) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility;

(i) Records and results of used oil analyses performed as described in the analysis plan required under §279.55; and

(ii) Summary reports and details of all incidents that require implementation of the contingency plan as specified in §279.52(b).

(b) Reporting. A used oil processor/re-refiner must report to the Secretary, in the form of a letter, on an annual basis (by March 1 of each year), the following information concerning used oil activities during the previous calendar year;

(1) The EPA identification number, name, and address of the processor/re-refiner;

(2) The calendar year covered by the report; and

(3) The quantities of used oil accepted for processing/re-refining and the manner in which the used oil is processed/re-refined, including the specific processes employed.

### **Section 279.58 Off-site shipments of used oil.**

Used oil processors/re-refiners who initiate shipments of used oil off-site must ship the used oil using a used oil transporter who has obtained an EPA identification number and Delaware Waste Transporter Permit.

### **Section 279.59 Management of residues.**

Owners and operators who generate residues from the storage, processing, or re-refining of used oil must manage the residues as specified in §279.10(e).

## **Subpart G - Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery**

- (4) The EPA identification number of the burner, processor/re-refiner, or disposal facility who will receive the used oil;
- (5) The quantity of used oil shipped; and
- (6) The date of shipment.
- (c) Record retention. The records described in paragraphs (a) and (b) of this section must be maintained for at least three years.

#### **Section 279.57 Operating record and reporting.**

- (a) Operating record.
  - (1) The owner or operator must keep a written operating record at the facility.
  - (2) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility;
    - (i) Records and results of used oil analyses performed as described in the analysis plan required under §279.55; and
    - (ii) Summary reports and details of all incidents that require implementation of the contingency plan as specified in §279.52(b).
  - (b) Reporting. A used oil processor/re-refiner must report to the Secretary, in the form of a letter, on an annual basis (by March 1 of each year), the following information concerning used oil activities during the previous calendar year:
    - (1) The EPA identification number, name, and address of the processor/re-refiner;
    - (2) The calendar year covered by the report; and
    - (3) The quantities of used oil accepted for processing/re-refining and the manner in which the used oil is processed/re-refined, including the specific processes employed.

#### **Section 279.58 Off-site shipments of used oil.**

Used oil processors/re-refiners who initiate shipments of used oil off-site must ship the used oil using a used oil transporter who has obtained an EPA identification number and Delaware Waste Transporter Permit.

#### **Section 279.59 Management of residues.**

Owners and operators who generate residues from the storage, processing, or re-refining of used oil must manage the residues as specified in §279.10(e).

### **Subpart G - Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery**

#### **Section 279.60 Applicability.**

- (a) General. The requirements of this subpart apply to used oil burners except as specified in paragraphs (a)(1) and (a)(2) of this section. A used oil burner is a facility where used oil not meeting the specification requirements in §279.11 is burned for energy recovery in devices identified in §279.61(a). Facilities burning used oil for energy recovery under the following conditions are not subject to this subpart:
  - (1) The used oil is burned by the generator in an on-site space heater under the provisions of §279.23;or
  - (2) The used oil is burned by a processor/re-refiner for purposes of processing used oil, which is considered burning incidentally to used oil processing.
- (b) Other applicable provisions. Used oil burners who conduct the following activities are also subject to the requirements of other applicable provisions of this part as indicated below.
  - (1) Burners who generate used oil must also comply with Subpart C of this part;
  - (2) Burners who transport used oil must also comply with Subpart E of this part;
  - (3) Except as provided in §279.61(b), burners who process or re-refine used oil must also comply with Subpart F of this part;

(4) Burners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in §279.11 must also comply with Subpart H of this part; and

(5) Burners who dispose of used oil must comply with Subpart I of this part.

(c) Specification fuel. This subpart does not apply to persons burning used oil that meets the used oil fuel specification of §279.11, provided that the burner complies with the requirements of Subpart H of this part.

(Amended August 21, 1997)

#### **Section 279.61 Restrictions on burning.**

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

(1) Industrial furnaces identified in §260.10 of these regulations;

(2) Boilers, as defined in §260.10 of these regulations, that are identified as follows:

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

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

(iii) Used oil-fired space heaters provided that the burner meets the provisions of §279.23; or

(3) Hazardous waste incinerators subject to regulation under Subpart O of Parts 264 or 265 of these regulations.

(b)(1) With the following exception, used oil burners may not process used oil unless they also comply with the requirements of Subpart F of this part.

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

#### **Section 279.62 Notification.**

(a) Identification numbers. Used oil burners who have not previously complied with the notification requirements of 7 Del.C., §6304(a) must comply with these requirements and obtain an EPA identification number.

(b) Mechanics of notification. A used oil burner who has not received an EPA identification number may obtain one by notifying the Secretary of their used oil activity by submitting either:

(1) A completed Delaware Notification of Regulated Waste Activity Form (8700-12); or

(2) A letter requesting an EPA identification number. The letter should include the following information:

(i) Burner company name;

(ii) Owner of the burner company;

(iii) Mailing address for the burner;

(iv) Name and telephone number for the burner point of contact;

(v) Type of used oil activity; and

(vi) Location of the burner facility.

#### **Section 279.63 Rebuttable presumption for used oil.**

(a) To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of §279.10(b)(1)(ii), a used oil burner must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

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

(1) Testing the used oil;

(2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used;

or

(3) If the used oil has been received from a processor/re-refiner subject to regulation under Subpart F of this part, using information provided by the processor/re-refiner.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of Part



261 of these regulations. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of Part 261 of these regulations). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. (202) 783-3238 (Document Number 955-001-00000-1).

(1) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in §279.24(c), to reclaim metalworking oils/fluids. The presumption does not apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

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

(d) Record retention. Records of analyses conducted or information used to comply with paragraphs (a), (b), and (c) of this section must be maintained by the burner for at least 3 years.  
(Amended July 23, 1996, August 21, 1997)

### **Section 279.64 Used oil storage.**

Used oil burners are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of this subpart. Used oil burners are also subject to the ***Delaware Regulations Governing Underground Storage Tank*** (UST) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

(a) Storage units. Used oil burners may not store used oil in units other than tanks, containers, or units subject to regulation under Parts 264 or 265 of these regulations.

(b) Condition of units. Containers and aboveground tanks used to store oil at burner facilities must be:

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

(2) Not leaking (no visible leaks).

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

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

(i) Dikes, berms or retaining walls; and

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

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

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

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

(i) Dikes, berms or retaining walls; and

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

(iii) An equivalent secondary containment system.

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

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

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

(i) Dikes, berms or retaining walls; and

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

(iii) An equivalent secondary containment system.

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

(f) Labels.

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

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

(g) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the requirements of the ***Delaware Regulations Governing Underground Storage Tanks*** (UST) and which has occurred after the effective date of Delaware's recycled used oil management program, a burner must perform the following cleanup steps:

(1) Stop the release;

(2) Contain the released used oil;

(3) Clean up and manage properly the released used oil and other materials; and

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

(Amended August 21, 1997, August 23, 1999)

#### **Section 279.65 Tracking.**

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

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

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

(3) The EPA identification number and Delaware Waste Transporter Permit Number of the transporter who delivered the used oil to the burner;

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

(5) The quantity of used oil accepted; and

(6) The date of acceptance.

(b) Record retention. The records described in paragraph (a) of this section must be maintained for at least three years.

#### **Section 279.66 Notices.**

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

(1) The burner has notified EPA stating the location and general description of his used oil management activities; and

(2) The burner will burn the used oil only in an industrial furnace or boiler identified in §279.61(a).

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

#### **Section 279.67 Management of residues.**

Burners who generate residues from the storage or burning of used oil must manage the residues as specified in §279.10(e).

### **Subpart H - Standards for Used Oil Fuel Marketers**

#### **Section 279.70 Applicability.**

- (a) Any person who conducts either of the following activities is subject to the requirements of this subpart:
- (1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or
  - (2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in §279.11.
- (b) The following persons are not marketers subject to this subpart:
- (1) Used oil generators, and transporters who transport used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from their facility to a used oil burner. However, processors/re-refiners who burn some used oil fuel for purposes of processing are considered to be burning incidentally to processing. Thus, generators and transporters who direct shipments of off-specification used oil to processor/re-refiners who incidentally burn used oil are not marketers subject to this subpart;
  - (2) Persons who direct shipments of on-specification used oil and who are not the first person to claim the oil meets the used oil fuel specifications of §279.11.
- (c) Any person subject to the requirements of this subpart must also comply with one of the following:
- (1) Subpart C of this part - Standards for Used Oil Generators;
  - (2) Subpart E of this part - Standards for Used Oil Transporters and Transfer Facilities;
  - (3) Subpart F of this part - Standards for Used Oil Processors and Re-refiners; or
  - (4) Subpart G of this part - Standards for Used Oil Burners who Burn Off-Specification Used Oil for Energy Recovery.

#### **Section 279.71 Prohibitions.**

A used oil fuel marketer may initiate a shipment of off-specification used oil only to a used oil burner who:

- (a) Has an EPA identification number; and
- (b) Burns the used oil in an industrial furnace or boiler identified in §279.61(a).

#### **Section 279.72 On-specification used oil fuel.**

(a) Analysis of used oil fuel. A generator, transporter, processor/re-refiner, or burner may determine that used oil that is to be burned for energy recovery meets the fuel specifications of §279.11 by performing analyses or obtaining copies of analyses or other information documenting that the used oil fuel meets the specifications.

(b) Record retention. A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the specifications for used oil fuel under §279.11, must keep copies of analyses of the used oil (or other information used to make the determination) for three years.

(Amended August 1, 1995)

#### **Section 279.73 Notification.**

(a) Identification numbers. A used oil fuel marketer subject to the requirements of this subpart who has not previously complied with the notification requirements of 7 Del.C., §6304(a) must comply with these requirements and obtain an EPA identification number.

(b) A marketer who has not received an EPA identification number may obtain one by notifying the Secretary of their used oil activity by submitting either:

- (1) A completed Delaware Notification of Regulated Waste Activity Form (8700-12); or
- (2) A letter requesting an EPA identification number. The letter should include the following

information:

- (i) Marketer company name;
- (ii) Owner of the marketer;
- (iii) Mailing address for the marketer;
- (iv) Name and telephone number for the marketer point of contact; and
- (v) Type of used oil activity (i.e., generator directing shipments of off-specification used oil to a

burner).

(Amended August 21, 1997)

## **Section 279.74 Tracking.**

(a) Off-specification used oil delivery. Any used oil marketer who directs a shipment of off-specification used oil to a burner must keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

- (1) The name and address of the transporter who delivers the used oil to the burner;
- (2) The name and address of the burner who will receive the used oil;
- (3) The EPA identification number and Delaware Waste Transporter Permit Number of the transporter who delivers the used oil to the burner;
- (4) The EPA identification number of the burner;
- (5) The quantity of used oil shipped; and
- (6) The date of shipment.

(b) On specification used oil delivery. A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the fuel specifications under §279.11 must keep a record of each shipment of used oil to the facility to which it delivers the used oil. Records for each shipment must include the following information:

- (1) The name and address of the facility receiving the shipment;
- (2) The quantity of used oil fuel delivered;
- (3) The date of shipment or delivery; and
- (4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under §279.72(a).

(c) Record retention. The records described in paragraphs (a) and (b) of this section must be maintained for at least three years. (Amended August 21, 2006)

## **Section 279.75 Notices.**

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

- (1) The burner has notified DNREC stating the location and general description of used oil management activities; and
- (2) The burner will burn the off-specification used oil only in an industrial furnace or boiler identified in §279.61(a).

(b) Certification retention. The certification described in paragraph (a) of this section must be maintained for three years from the date the last shipment of off-specification used oil is shipped to the burner.

## **Subpart I - Standards for Use as a Dust Suppressant and Disposal of Used Oil**

### **Section 279.80 Applicability.**

The requirements of this subpart apply to all used oils that cannot be recycled and are therefore being disposed.

### **Section 279.81 Disposal.**

(a) Disposal of hazardous used oils. Used oils that are identified as a hazardous waste and cannot be recycled in accordance with this part must be managed in accordance with the hazardous waste management requirements of Parts 260 through 266, 268, 122 and 124 of these regulations.

(b) Disposal of nonhazardous used oils. Used oils that are not hazardous wastes and cannot be recycled under this part must be disposed in accordance with the requirements of 40 CFR Parts 257 and 258.

### **Section 279.82 Use as a dust suppressant.**

(a) The use of used oil as a dust suppressant is prohibited.  
(Amended July 26, 1994)