

**0400-12-01-.11 STANDARDS FOR THE MANAGEMENT OF USED OIL.**

## (1) Definitions [40 CFR 279 Subpart A]

## (a) Definitions [40 CFR 279.1]

Terms that are defined in Rules 0400-12-01-.01(2)(a), 0400-12-01-.02(1)(a), and 40 CFR 280.12 have the same meanings when used in this rule.

"Aboveground tank" means a tank used to store or process used oil that is not an underground storage tank as defined in Rule 0400-18-01-.01.

"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 July 7, 1995, the effective date of Tennessee's authorized used oil program. 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 July 7, 1995, the effective date of Tennessee's authorized used oil program.

"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.

(Rule 0400-12-01-.11, continued)

"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 subparagraph (2)(b) of this rule is burned for energy recovery in devices identified in part (7)(b)1 of this rule.

"Used oil collection center" means any site or facility that is registered, licensed, permitted, or recognized by a state, county, or municipal government to manage used oil and accepts/aggregates and stores used oil collected from used oil generators regulated under paragraph (3) of this rule who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of subparagraph (3)(d) of this rule. 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 subparagraph (2)(b) of this rule.

"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 subpart (3)(a)2(ii) of this rule. Transfer facilities that store used oil for more than 35 days are subject to regulation under paragraph (6) of this rule.

"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.

(Rule 0400-12-01-.11, continued)

(2) Applicability [40 CFR 279 Subpart B]

(a) Applicability [40 CFR 279.10]

This subparagraph identifies those materials which are subject to regulation as used oil under this rule. This subparagraph also identifies some materials that are not subject to regulation as used oil under this rule, and indicates whether these materials may be subject to regulation as hazardous waste under Rules 0400-12-01-.01 through .07, .09 and .10.

1. Used Oil

The Commissioner 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 subparagraph (b) of this paragraph, the regulations of this rule apply to used oil, and to materials identified in this subparagraph as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in Rule 0400-12-01-.02(3).

2. Mixtures of Used Oil and Hazardous Waste

(i) Listed Hazardous Waste.

(I) Mixtures of used oil and hazardous waste that is listed in Rule 0400-12-01-.02(4) are subject to regulation as hazardous waste under Rules 0400-12-01-.01 through .07, .09 and .10, rather than as used oil under this rule, except as subparts (ii) and (iii) of this part provide otherwise.

(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 Rule 0400-12-01-.02(4). Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Rule 0400-12-01-.02(5)(a) Appendix VIII).

I. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in part (3)(e)3 of this rule, 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.

II. 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.

(ii) Characteristic Hazardous Waste

(Rule 0400-12-01-.11, continued)

Mixtures of used oil and hazardous waste that solely exhibit one or more of the hazardous waste characteristics identified in Rule 0400-12-01-.02(3) and mixtures of used oil and hazardous waste that are listed in Rule 0400-12-01-.02(4) solely because they exhibit one or more of the characteristics of hazardous waste identified in Rule 0400-12-01-.02(3) are subject to:

- (I) Except as provided in item (III) of this subpart, regulation as hazardous waste under Rules 0400-12-01-.01 through .07, .09 and .10 rather than as used oil under this rule, if the resultant mixture exhibits any characteristics of hazardous waste identified in Rule 0400-12-01-.02(3), or
  - (II) Except as specified in item (III) of this subpart, regulation as used oil under this rule, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Rule 0400-12-01-.02(3).
  - (III) Regulation as used oil under this rule, if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under Rule 0400-12-01-.02(3)(b).
- (iii) Conditionally Exempt Small Quantity Generator Hazardous Waste
- (I) In accordance with Rule 0400-12-01-.02(1)(e)10, mixtures of used oil and conditionally exempt small quantity generator hazardous waste are subject to regulation as used oil under this rule, provided the resultant mixture does not exhibit the characteristic of ignitability, corrosivity, or reactivity, in accordance with subparagraphs (3)(b), (c) or (d) of Rule 0400-12-01-.02.
  - (II) If the mixture exhibits the characteristic of ignitability, corrosivity, or reactivity, in accordance with subparagraphs (3)(b), (c) or (d) of Rule 0400-12-01-.02, then the mixture shall be managed as hazardous waste and not as used oil under this rule.
3. Materials Containing or Otherwise Contaminated with Used Oil
- (i) Except as provided in subpart (ii) of this part, 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 rule, and
    - (II) If applicable, are subject to the hazardous waste regulations of Rules 0400-12-01-.01 through .07, .09 and .10.
  - (ii) Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this rule.
  - (iii) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this rule.

(Rule 0400-12-01-.11, continued)

4. Mixtures of Used Oil with Products
  - (i) Except as provided in subpart (ii) of this part, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this rule.
  - (ii) 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 rule once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of paragraph (3) of this rule.
5. Materials Derived from Used Oil
  - (i) 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 rule and
    - (II) Not solid wastes and are thus not subject to the hazardous waste regulations of Rules 0400-12-01-.01 through .07, .09 and .10 as provided in Rule 0400-12-01-.02(1)(c)3(ii)(I).
  - (ii) 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 rule.
  - (iii) Except as provided in subpart (iv) of this part, 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 rule and
    - (II) Solid wastes and thus are subject to the hazardous waste regulations of Rules 0400-12-01-.01 through .07, .09 and .10, if the materials are listed or identified as hazardous waste.
  - (iv) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this rule.
6. Wastewater

Wastewater, the discharge of which is subject to regulation under either the Tennessee Water Quality Control Act of 1977 or section 402 or section 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 rule. For purposes of this part, "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.
7. Used Oil Introduced Into Crude Oil Pipelines or a Petroleum Refining Facility

(Rule 0400-12-01-.11, continued)

- (i) 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 rule. The used oil is subject to the requirements of this rule prior to the mixing of used oil with crude oil or natural gas liquids.
  - (ii) 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 rule.
  - (iii) 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 rule 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 rule.
  - (iv) Except as provided in subpart (v) of this part, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this rule only if the used oil meets the specification of subparagraph (b) of this paragraph. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this rule.
  - (v) 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 rule. 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).
  - (vi) 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 rule.
8. Used Oil on Vessels
- Used oil produced on vessels from normal shipboard operations is not subject to this rule until it is transported ashore.
9. Used Oil Containing PCBs
- Used oil containing PCBs (as defined at 40 CFR 761.3) at any concentration less than 50 ppm is subject to the requirements of this rule unless, because of dilution, it is regulated under 40 CFR Part 761 as a used oil containing PCBs at 50 ppm or greater. PCB-containing used oil subject to the requirements of this rule may also be subject to the prohibitions and requirements found at 40 CFR Part 761, including §761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this rule, but is subject to regulation under 40 CFR Part 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this rule or Part 761.

(Rule 0400-12-01-.11, continued)

## (b) Used Oil Specifications [40 CFR 279.11]

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 rule 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 subparagraphs (8)(c) and (8)(d) and part (8)(e)2 of this rule, the used oil is no longer subject to this rule.

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

Constituent/property	Allowable level
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 part (a)2 of this paragraph).

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 subpart (a)2(i) of this paragraph. Such used oil is subject to Rule 0400-12-01-.09(8) rather than this rule when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

## (c) Prohibitions [40 CFR 279.12]

## 1. Surface Impoundment Prohibition

Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under Rules 0400-12-01-.05 or .06.

## 2. Use as a Dust Suppressant

The use of used oil as a dust suppressant is prohibited in Tennessee, as set forth in subparagraph (9)(c) of this rule.

## 3. Burning in Particular Units

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

(i) Industrial furnaces identified in Rule 0400-12-01-.01(2)(a);

(ii) Boilers, as defined in Rule 0400-12-01-.01(2)(a), 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;

(Rule 0400-12-01-.11, continued)

- (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 subparagraph (3)(d) of this rule.
  - (iii) Hazardous waste incinerators subject to regulation under Rules 0400-12-01-.05(15) or .06(15).
- (d) Changes in Notification Data

The used oil marketers, processors/re-refiners and/or haulers/transporters shall notify the Department in writing within 30 days after changes in operational status (e.g., becoming inactive, or changes affecting certification, etc.).

(3) Standards for Used Oil Generators [40 CFR 279 Subpart C]

(a) Applicability [40 CFR 279.20]

1. General

Except as provided in subparts (i) through (iv) of this part, this paragraph 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.

(i) Household "do-it-yourselfer" Used Oil Generators

Household "do-it-yourselfer" used oil generators are not subject to regulation under this rule.

(ii) Vessels

Vessels at sea or at port are not subject to this paragraph. For purposes of this paragraph, 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 paragraph once the used oil is transported ashore. The co-generators may decide among them which party will fulfill the requirements of this paragraph.

(iii) 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 rule once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this paragraph.

(iv) 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 rule.



(Rule 0400-12-01-.11, continued)

(Comment: Farmers meeting this exemption are presumed to be do-it-yourselfers.)

2. Other Applicable Provisions

Used oil generators who conduct the following activities are subject to the requirements of other applicable provisions of this rule as indicated in subparts (i) through (v) of this part:

- (i) Generators who transport used oil, except under the self-transport provisions of parts (e)1 and 2 of this paragraph, must also comply with paragraph (5) of this rule.
- (ii) Generators who process or re-refine used oil must also comply with paragraph (6) of this rule.
  - (I) Except as provided in item (II) of this subpart, generators who process or re-refine used oil must also comply with paragraph (6) of this rule.
  - (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:
    - I. Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;
    - II. Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to the Tennessee Water Quality Control Act of 1977 or 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;
    - III. Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;
    - IV. Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to part (2)(a)3 of this rule;
    - V. Filtering, separating, or otherwise reconditioning used oil before burning it in a space heater pursuant to subparagraph (d) of this paragraph.
- (iii) Generators who burn off-specification used oil for energy recovery, except under the on-site space heater provisions of subparagraph (d) of this paragraph, must also comply with paragraph (7) of this rule.
- (iv) Generators who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in

(Rule 0400-12-01-.11, continued)

subparagraph (2)(b) of this rule must also comply with paragraph (8) of this rule.

- (v) Generators who dispose of used oil, including the use of used oil as a dust suppressant, must also comply with paragraph (9) of this rule.

(b) Hazardous Waste Mixing [40 CFR 279.21]

1. Mixtures of used oil and hazardous waste must be managed in accordance with Rule 0400-12-01-.11(2)(a)2.
2. The rebuttable presumption for used oil of item (2)(a)2(i)(II) of this rule applies to used oil managed by generators. Under the rebuttable presumption for used oil of item (2)(a)2(i)(II) of this rule, 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.

(c) Used Oil Storage [40 CFR 279.22]

Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures [40 CFR part 112] in addition to the requirements of this paragraph. Used oil generators are also subject to the Underground Storage Tank standards (Rules 0400-18-01-.01 through -.11) 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 paragraph.

1. Storage Units

Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under Rules 0400-12-01-.05 or .06.

2. Condition of Units

Containers and aboveground tanks used to store used oil at generator facilities must be:

- (i) In good condition (no severe rusting, apparent structural defects or deterioration); and
- (ii) Not leaking (no visible leaks).

3. Labels

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

4. Response to Releases

Upon detection of a release of used oil to the environment that is not subject to the requirements of the Underground Storage Tank standards (Rules 0400-18-

(Rule 0400-12-01-.11, continued)

01-.01 through -.11), and which occurred after July 1, 1993, the effective date of the used oil regulations in Tennessee, a generator must perform the following cleanup steps:

- (i) Stop the release;
- (ii) Contain the released used oil;
- (iii) Clean up and manage properly the released used oil and other materials; and
- (iv) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(d) On-site Burning in Space Heaters [40 CFR 279.23]

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

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

(e) Off-site Shipments [40 CFR 279.24]

Except as provided in parts 1 through 3 of this subparagraph, generators must ensure that their used oil is transported only by transporters who have obtained Installation Identification Numbers.

1. Self-transportation of Small Amounts to Approved Collection Centers

Generators may transport, without an Installation 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:

- (i) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
- (ii) The generator transports no more than 55 gallons of used oil at any time; and
- (iii) The generator transports the used oil to a used oil collection center that is registered, licensed, permitted, or recognized by a state/county/municipal government to manage used oil.

2. Self-transportation of Small Amounts to Aggregation Points Owned by the Generator

Generators may transport, without an Installation Identification Number, used oil that is generated at the generator's site to an aggregation point provided that:

- (i) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

(Rule 0400-12-01-.11, continued)

- (ii) The generator transports no more than 55 gallons of used oil at any time; and
- (iii) The generator transports the used oil to an aggregation point that is owned and/or operated by the same generator.

3. Tolling Arrangements

Used oil generators may arrange for used oil to be transported by a transporter without an Installation 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 a lubricant, cutting oil, or coolant. The contract (known as a "tolling arrangement") must indicate:

- (i) The type of used oil and the frequency of shipments;
- (ii) That the vehicle used to transport the used oil to the processing/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
- (iii) That reclaimed oil will be returned to the generator.

(4) Standards for Used Oil Collection Centers and Aggregation Points [40 CFR 279 Subpart D]

(a) Do-it-Yourselfer Used Oil Collection Centers [40 CFR 279.30]

1. Applicability

This paragraph 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.

2. DIY Used Oil Collection Center Requirements

Owners or operators of all DIY used oil collection centers must comply with the generator standards in paragraph (3) of this rule.

(b) Used Oil Collection Centers [40 CFR 279.31]

1. Applicability

This subparagraph 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 paragraph (3) of this rule who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of part (3)(e)1 of this rule. Used oil collection centers may also accept used oil from household do-it-yourselfers.

2. Used Oil Collection Center Requirements

Owners or operators of all used oil collection centers must:

- (i) Comply with the generator standards in paragraph (3) of this rule; and

(Rule 0400-12-01-.11, continued)

- (ii) Be registered/ licensed/ permitted/ recognized by a state/ county/ municipal government to manage used oil.
  
- (c) Used Oil Aggregation Points Owned by the Generator [40 CFR 279.32]
  - 1. Applicability

This subparagraph 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 part (3)(e)2 of this rule. Used oil aggregation points may also accept used oil from household do-it-yourselfers.
  - 2. Used Oil Aggregation Point Requirements

Owners or operators of all used oil aggregation points must comply with the generator standards in paragraph (3) of this rule.
  
- (5) Standards for Used Oil Transporter and Transfer Facilities
  - (a) Applicability [40 CFR 279.40]
    - 1. General

Except as provided in subparts (i) through (iv) of this part, this paragraph 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.

      - (i) This paragraph does not apply to on-site transportation.
      - (ii) This paragraph 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 part (3)(e)1 of this rule, except as provided for in subpart (v) of this part.
      - (iii) This paragraph 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 part (3)(e)2 of this rule, except as provided for in subpart (v) of this part.
      - (iv) This paragraph 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 subparts (i) through (iii) of this part, this paragraph 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.
      - (v) Any transporter of used oil who transports: a) quantities of used oil in excess of 55 gallons of used oil at any given time, or b) who transports more than 1,000 gallons of used oil in a calendar year, must meet the certification requirements of this subparagraph in order to transport used

(Rule 0400-12-01-.11, continued)

oil in the state of Tennessee. Certification of compliance with the following items must be demonstrated prior to commencement of used oil transportation activities by the transporter, as well as annually, as part of the used oil transporter's annual report.

- (I) Each used oil hauler must demonstrate that each employee engaged in the hauling of used oil is in the possession of a current Commercial Driver's License. This must be accompanied by a signed certification by the employee stating that the employee has examined and is familiar with the Used Oil Management Standards for Transporters in Tennessee Rule 0400-12-01-.11.
- (II) All vehicles used to transport used oil shall have Periodic Inspections as described by Tennessee Code Annotated §65-15-113 and Rule 1220-02-01-.20. The requirements of a Periodic Inspection are found in federal regulations at 49 CFR Parts 396.17 through 396.25, and Appendix G of 49 CFR Part 396. A copy of the Periodic Inspection report for each vehicle engaged in the transport of used oil shall be included in the initial Certification and updated in subsequent annual reports. Each vehicle shall be in good mechanical condition and suitable for the transportation of used oil.
- (III) All commercial transporters engaged in the transportation of used oils must maintain a minimum of \$1,000,000 in liability insurance.
- (IV) The transporter shall briefly describe the recordkeeping practices to demonstrate compliance with subparagraph (g) of this paragraph. Copies (examples only) of shipping papers shall be included.
- (V)
  - I. The transporter shall certify that all used oil is delivered to qualified customers or certified recyclers.
  - II.
    - A. The terms "qualified customers" and "certified recyclers" shall mean transporters, transfer facilities, off-specification burners, reprocessors, marketers, and/or re-refiners of used oil, which are in possession of valid Installation Identification Numbers.
    - B. "Qualified customers" shall also include customers without Installation Identification Numbers which receive and burn only those used oils which qualify as "on-specification" used oils as defined in subparagraph (2)(b) of this rule. In such cases when the qualified customer receives a shipment of on-specification used oil and does not possess an Installation Identification Number, the transporter shall clearly indicate in the record that the shipment was "on-specification" used oil.
  - III.
    - A. Supporting documentation of compliance with subitems I and II of this item shall include all information as required at part (g)2 of this paragraph.
    - B. This documentation shall be constructed and maintained in accordance with the recordkeeping requirements of subparagraph (g) of this paragraph, and shall be

(Rule 0400-12-01-.11, continued)

available for inspection and furnished to the Department upon request.

- (vi) (I) Certifications required by this paragraph, except for “drivers” identified in item (v)(I) of this part, shall contain the following wording:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that knowingly giving or causing to be given any false information constitutes a Class C misdemeanor.”

- (II) The Certification for “drivers” referred to in item (v)(I) of this part shall contain the following wording:

“I certify that I have read and am familiar with the Used Oil Management Standards for Transporters in Rule 0400-12-01-.11. I am aware that knowingly giving or causing to be given any false information constitutes a Class C misdemeanor.”

## 2. 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 paragraph from the time the used oil enters and until the time it exits the United States.

## 3. Trucks Used to Transport Hazardous Waste

Unless trucks previously used to transport hazardous waste are emptied as described in Rule 0400-12-01-.02(1)(g) 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 part (2)(a)2 of this rule, the hazardous waste/used oil mixture is determined not to be hazardous waste.

## 4. Other Applicable Provisions

Used oil transporters who conduct the following activities are also subject to other applicable provisions of this rule as indicated in subparts (i) through (v) of this part:

- (i) Transporters who generate used oil must also comply with paragraph (3) of this rule;
- (ii) Transporters who process or re-refine used oil, except as provided in subparagraph (b) of this paragraph, must also comply with paragraph (6) of this rule;
- (iii) Transporters who burn off-specification used oil for energy recovery must also comply with paragraph (7) of this rule;

(Rule 0400-12-01-.11, continued)

- (iv) 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 subparagraph (2)(b) of this rule must also comply with paragraph (8) of this rule; and
    - (v) Transporters who dispose of used oil, including the use of used oil as a dust suppressant, must also comply with paragraph (9) of this rule.
- (b) Restrictions on Transporters Who Are Not Also Processors or Re-refiners [40 CFR 279.41]
  - 1. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in part 2 of this subparagraph, used oil transporters may not process used oil unless they also comply with the requirements for processors/re-refiners in paragraph (6) of this rule.
  - 2. 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 paragraph (6) of this rule.
  - 3. 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 paragraph (6) of this rule.
- (c) Notification [40 CFR 279.42]
  - 1. Identification Numbers

Used oil transporters who have not previously complied with the notification requirements of Rule 0400-12-01-.03(2) must comply with these requirements and obtain an Installation Identification Number.
  - 2. Mechanics of Notification

A used oil transporter who has not received an Installation Identification Number may obtain one by notifying the Commissioner of their used oil activity by submitting either:

    - (i) A completed Solid Waste Management Notification, and Solid Waste Management Notification Schedule B and Hazardous Waste Notification forms; or
    - (ii) A letter requesting an Installation Identification Number.

Call the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, Used Oil Management Program at (800) 237-7018 to determine where to send a letter requesting an



(Rule 0400-12-01-.11, continued)

Installation Identification Number. The letter should include the following information:

- (I) Transporter company name;
- (II) Owner of the transporter company;
- (III) Mailing address for the transporter;
- (IV) Name and telephone number for the transporter point of contact;
- (V) Type of transport activity (i.e., transport only, transport and transfer facility, transfer facility only);
- (VI) Location of all transfer facilities at which used oil is stored;
- (VII) Name and telephone number for a contact at each transfer facility.

(d) Used Oil Transportation [40 CFR 279.43]

1. Deliveries

A used oil transporter must deliver all used oil received to:

- (i) Another used oil transporter, provided that the transporter has obtained an Installation Identification Number;
- (ii) A used oil processing/re-refining facility who has obtained an Installation Identification Number;
- (iii) An off-specification used oil burner facility who has obtained an Installation Identification Number; or
- (iv) An on-specification used oil burner facility.

2. 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.

3. Used Oil Discharges.

- (i) 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).
- (ii) 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 Installation Identification Numbers.

(Rule 0400-12-01-.11, continued)

- (iii) 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
    - (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.
  - (iv) A water transporter who has discharged used oil must give notice as required by 33 CFR 153.203.
  - (v) 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.
- (e) Rebuttable Presumption For Used Oil [40 CFR 279.44]
1. To ensure that used oil is not a hazardous waste under the rebuttable presumption of item (2)(a)2(i)(II) of this rule, 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.
  2. The transporter must make this determination by:
    - (i) Testing the used oil; or
    - (ii) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.
  3. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Rule 0400-12-01-.02(4). The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Rule 0400-12-01-.02(5) Appendix VIII).
    - (i) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in part (3)(e)3 of this rule, 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.
    - (ii) 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.
  4. Record Retention
- Records of analyses conducted or information used to comply with parts 1, 2 and 3 of this subparagraph must be maintained by the transporter for at least 3 years.

(Rule 0400-12-01-.11, continued)

(f) Used Oil Storage at Transfer Facilities [40 CFR 279.45]

Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR part 112) in addition to the requirements of this paragraph. Used oil transporters are also subject to the Underground Storage Tank standards (Rules 0400-18-01-.01 through -.11) 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 paragraph.

1. Applicability

This subparagraph 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 paragraph (6) of this rule.

2. 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 Rules 0400-12-01-.05 or .06.

3. Condition of Units

Containers and aboveground tanks used to store used oil at transfer facilities must be:

- (i) In good condition (no severe rusting, apparent structural defects or deterioration); and
- (ii) Not leaking (no visible leaks).

4. Secondary Containment for Containers

Containers used to store used oil at transfer facilities must be equipped with a secondary containment system.

- (i) 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.
- (ii) 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.

5. Secondary Containment for Existing Aboveground Tanks

(Rule 0400-12-01-.11, continued)

Existing aboveground tanks used to store used oil at transfer facilities must be equipped with a secondary containment system.

- (i) 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.
- (ii) 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.

#### 6. 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.

- (i) 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.
- (ii) 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.

#### 7. Labels

- (i) Containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil."
- (ii) 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." Where fill pipes are visually separated from the tanks (e.g., by a wall or other obstruction), the fill pipes must be labeled on both sides of the obstruction.

#### 8. Response to Releases

Upon detection of a release of used oil to the environment that is not subject to the requirements of the Underground Storage Tank standards (Rules 0400-18-01-.01 through -.11), and which occurred after July 1, 1993, the effective date of the used oil regulations in Tennessee, the owner/operator of a transfer facility must perform the following cleanup steps:

(Rule 0400-12-01-.11, continued)

- (i) Stop the release;
- (ii) Contain the released used oil;
- (iii) Clean up and manage properly the released used oil and other materials;  
and
- (iv) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(g) Tracking [40 CFR 279.46]

1. Acceptance

Used oil transporters must keep a record of each used oil shipment accepted for transport. Records for each shipment must include:

- (i) The name and address of the generator, transporter, or processor/re-refiner who provided the used oil for transport;
- (ii) The Installation Identification Number (if applicable) of the generator, transporter, or processor/re-refiner who provided the used oil for transport;
- (iii) The quantity of used oil accepted;
- (iv) The date of acceptance; and
- (v) 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.
  - (I) Except as provided in item (II) of this subpart, 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.

2. 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:

- (i) The name and address of the receiving facility or transporter;
- (ii) The Installation Identification Number of the receiving facility or transporter;
- (iii) The quantity of used oil delivered;
- (iv) The date of delivery;
- (v) The signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.

(Rule 0400-12-01-.11, continued)

- (I) Except as provided in item (II) of this subpart, 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.

3. Exports of Used Oil

Used oil transporters must maintain the records described in subparts 2(i) through (iv) of this subparagraph for each shipment of used oil exported to any foreign country.

4. Record Retention

The records described in parts 1, 2, and 3 of this subparagraph must be maintained for at least three years.

(h) Management of Residues [40 CFR 279.47]

Transporters who generate residues from the storage or transport of used oil must manage the residues as specified in part (2)(a)5 of this rule.

(6) Standards for Used Oil Processors and Re-Refiners [40 CFR 279 Subpart F]

(a) Applicability [40 CFR 279.50]

1. The requirements of this paragraph 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 paragraph do not apply to:

- (i) Transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in subparagraph (5)(b) of this rule; or
- (ii) Burners that conduct incidental processing operations that occur during the normal course of used oil management prior to burning as provided in part (7)(b)2 of this rule.

2. 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 rule as indicated in subparts (i) through (v) of this part.

- (i) Processors/re-refiners who generate used oil must also comply with paragraph (3) of this rule;
- (ii) Processors/re-refiners who transport used oil must also comply with paragraph (5) of this rule;

(Rule 0400-12-01-.11, continued)

- (iii) Except as provided in items (I) and (II) of this subpart, processors/re-refiners who burn off-specification used oil for energy recovery must also comply with paragraph (7) of this rule. Processor/re-refiners burning used oil for energy recovery under the following conditions are not subject to paragraph (7) of this rule:
    - (I) The used oil is burned in an on-site space heater that meets the requirements of subparagraph (3)(d) of this rule; or
    - (II) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;
  - (iv) 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 subparagraph (2)(b) of this rule must also comply with paragraph (8) of this rule; and
  - (v) Processors/re-refiners who dispose of used oil, including the use of used oil as a dust suppressant, also must comply with paragraph (9) of this rule.
- (b) Notification [40 CFR 279.51]
- 1. Identification Numbers

Used oil processors and re-refiners who have not previously complied with the notification requirements of Rule 0400-12-01-.03(2) must comply with these requirements and obtain an Installation Identification Number.
  - 2. Mechanics of Notification

A used oil processor or re-refiner who has not received an Installation Identification Number may obtain one by notifying the Commissioner of their used oil activity by submitting either:

    - (i) A completed Solid Waste Management Notification and Hazardous Waste Notification Forms; or

(Note: To obtain the forms call Tennessee Department of Environment and Conservation, Division of Solid Waste Management (800) 237-7018.)

    - (ii) A letter requesting an Installation Identification Number.

Call the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, Used Oil Management Program at (800) 237-7018 to determine where to send a letter requesting an Installation 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;

(Rule 0400-12-01-.11, continued)

- (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.

(c) General Facility Standards [40 CFR 279.52]

1. Preparedness and Prevention

Owners and operators of used oil processing and re-refining facilities must comply with the following requirements:

(i) 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.

(ii) 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 items (I) through (IV) of this subpart:

- (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.

(iii) 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.

(iv) 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



(Rule 0400-12-01-.11, continued)

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 subpart (ii) of this part.

- (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 subpart (ii) of this part.

(v) 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.

(vi) Arrangements With Local Authorities

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

- I. Arrangements to familiarize 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;
- II. Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;
- III. Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and
- IV. Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

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

2. Contingency Plan and Emergency Procedures

Owners and operators of used oil processing and re-refining facilities must comply with the following requirements:

(Rule 0400-12-01-.11, continued)

- (i) 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.
- (ii) Content of Contingency Plan
  - (I) The contingency plan must describe the actions facility personnel must take to comply with subparts (i) and (vi) of this part 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 federal 40 CFR 112, or 40 CFR 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 rule.
  - (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 subpart 1(vi) of this subparagraph.
  - (IV) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subpart (v) of this part), 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).
- (iii) Copies of Contingency Plan

A copy of the contingency plan and all revisions to the plan must be:

(Rule 0400-12-01-.11, continued)

- (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.

(iv) 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.

(v) 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 subpart (vi) of this part. 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.)

(vi) Emergency Procedures

- (I) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately:
  - I. Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
  - II. Notify appropriate State 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,

(Rule 0400-12-01-.11, continued)

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:
  - I. If his assessment indicated that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and
  - II. He must immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under federal 40 CFR 1510), the Tennessee Emergency Management Agency (TEMA) (using their 24-hour toll free number 800/262-3300 or 3400) or the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:
    - A. Name and telephone number of reporter;
    - B. Name and address of facility;
    - C. Time and type of incident (e.g., release, fire);
    - D. Name and quantity of material(s) involved, to the extent known;
    - E. The extent of injuries, if any; and
    - F. 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

(Rule 0400-12-01-.11, continued)

buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

- (VII) Immediately after an emergency, the emergency coordinator must provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.
- (VIII) The emergency coordinator must ensure that, in the affected area(s) of the facility:
  - I. No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and
  - II. All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.
  - III. The owner or operator must notify the Commissioner, and appropriate State and local authorities, that the facility is in compliance with subitems I and II of this item 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 Commissioner. The report must include:
  - I. Name, address, and telephone number of the owner or operator;
  - II. Name, address, and telephone number of the facility;
  - III. Date, time, and type of incident (e.g., fire, explosion);
  - IV. Name and quantity of material(s) involved;
  - V. The extent of injuries, if any;
  - VI. An assessment of actual or potential hazards to human health or the environment, where this is applicable;
  - VII. Estimated quantity and disposition of recovered material that resulted from the incident.

(d) Rebuttable Presumption for Used Oil [40 CFR 279.53]

1. To ensure that used oil managed at a processing/re-refining facility is not hazardous waste under the rebuttable presumption of item (2)(a)2(i)(II) of this rule, 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.
2. The owner or operator must make this determination by:

(Rule 0400-12-01-.11, continued)

- (i) Testing the used oil; or
  - (ii) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.
- 3. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Rule 0400-12-01-.02(4). The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Rule 0400-12-01-.02(5)(a) Appendix VIII).
  - (i) 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.
  - (ii) 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.
- (e) Used Oil Management [40 CFR 279.54]

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 paragraph. Used oil processors/re-refiners are also subject to the Underground Storage Tank standards (Rules 0400-18-01-.01 through -.11) 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 paragraph.

1. Management Units

Used oil processors/re-refiners may not store used oil in units other than tanks, containers, or units subject to regulation under Rule 0400-12-01-.05 or .06.

2. Condition of Units

Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities must be:

- (i) In good condition (no severe rusting, apparent structural defects or deterioration); and
- (ii) Not leaking (no visible leaks).

3. 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.

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

(Rule 0400-12-01-.11, continued)

- (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.
- (ii) 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.
4. 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.
- (i) 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.
- (ii) 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.
5. 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.
- (i) 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.
- (ii) 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.
6. Labels

(Rule 0400-12-01-.11, continued)

- (i) 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."
- (ii) 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." Where fill pipes are visually separated from the tanks (e.g., by a wall or other obstruction), the fill pipes must be labeled on both sides of the obstruction.

#### 7. Response to Releases

Upon detection of a release of used oil to the environment that is not subject to the requirements of the Underground Storage Tank standards (Rules 0400-18-01-.01 through -.11), and which occurred after July 1, 1993, the effective date of the used oil regulations in Tennessee, an owner/operator must perform the following cleanup steps:

- (i) Stop the release;
- (ii) Contain the released used oil;
- (iii) Clean up and manage properly the released used oil and other materials; and
- (iv) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

#### 8. Closure

##### (i) 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 this rule.
- (II) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in item (I) of this subpart, 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 (Rule 0400-12-01-.05(14)(k)).

##### (ii) 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;



(Rule 0400-12-01-.11, continued)

- (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 Rule 0400-12-01-.02.

(f) Analysis Plan [40 CFR 279.55]

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 subparagraph (d) of this paragraph and, if applicable, subparagraph (8)(c) of this rule. The owner or operator must keep the plan at the facility.

1. Rebuttable Presumption for Used Oil in Subparagraph (d) of this Paragraph

At a minimum, the plan must specify the following:

- (i) Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination.
- (ii) If sample analyses are used to make this determination:
  - (I) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:
    - I. One of the sampling methods in Appendix I of Rule 0400-12-01-.02; or
    - II. A method shown to be equivalent under Rules 0400-12-01-.01(3)(a) and (b);
  - (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 subparagraph (d) of this paragraph; and
- (iii) The type of information that will be used to determine the halogen content of the used oil.

2. On-specification Used Oil Fuel in Subparagraph (8)(c) of this rule

At a minimum, the plan must specify the following if subparagraph (8)(c) of this rule is applicable:

- (i) Whether sample analyses or other information will be used to make this determination;
- (ii) 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:

(Rule 0400-12-01-.11, continued)

- I. One of the sampling methods in Rule 0400-12-01-.02 Appendix I; or
  - II. A method shown to be equivalent under Rule 0400-12-01-.01(3)(a) and (b);
- (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 subparagraph (8)(c) of this rule; and
- (iii) The type of information that will be used to make the on-specification used oil fuel determination.

(g) Tracking [40 CFR 279.56]

1. 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:

- (i) The name and address of the transporter who delivered the used oil to the processor/re-refiner;
- (ii) The name and address of the generator or processor/re-refiner from whom the used oil was sent for processing/re-refining;
- (iii) The Installation Identification Number of the transporter who delivered the used oil to the processor/re-refiner;
- (iv) The Installation Identification Number (if applicable) of the generator or processor/re-refiner from whom the used oil was sent for processing/re-refining;
- (v) The quantity of used oil accepted; and
- (vi) The date of acceptance.

2. 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:

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

(Rule 0400-12-01-.11, continued)

- (ii) The name and address of the burner, processor/re-refiner or disposal facility who will receive the used oil;
- (iii) The Installation Identification Number of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;
- (iv) The Installation Identification Number of the burner, processor/re-refiner, or disposal facility who will receive the used oil;
- (v) The quantity of used oil shipped; and
- (vi) The date of shipment.

3. Record Retention

The records described in part (6)(g)1 and 2 of this rule must be maintained for at least three years.

(h) Operating Record and Reporting

1. Operating Record [40 CFR 279.57(a)]

- (i) The owner or operator must keep a written operating record at the facility.
- (ii) 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 subparagraph (f) of this paragraph; and
  - (II) Summary reports and details of all incidents that require implementation of the contingency plan as specified in part (c)2 of this paragraph.

2. Annual Report

A used oil processor/re-refiner and/or hauler/transporter must prepare and submit a single copy of an annual report to the Commissioner by March 1 of each year. Such reports must be submitted on forms provided by the Department and in accordance with the instructions accompanying the form. The annual report must cover activities during the previous calendar year and must include the following information:

- (i) The Installation Identification Number (issued by the Department or EPA), name, and address of the processor/re-refiner and/or hauler/transporter;
- (ii) The calendar year covered by the report;
- (iii) Other information requested by the Department, including but not limited to the following:
  - (I) For a Processor/Re-refiner, 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; and

(Rule 0400-12-01-.11, continued)

- (II) For a hauler/transporter, the type and quantity of used oil transported, collected and recycled; and
- (iv) The certification signed by the owner or operator or his authorized representative.
- (i) Off-site Shipments of Used Oil [40 CFR 279.58]

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 Installation Identification Number.
- (j) Management of Residues [40 CFR 279.59]

Owners and operators who generate residues from the storage, processing, or re-refining of used oil must manage the residues as specified in part (2)(a)5 of this rule.
- (7) Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery [40 CFR 279 Subpart G]
  - (a) Applicability [40 CFR 279.60]
    - 1. General

The requirements of this paragraph apply to used oil burners except as specified in subparts (i) and (ii) of this part. A used oil burner is a facility where used oil not meeting the specification requirements in subparagraph (2)(b) of this rule is burned for energy recovery in devices identified in part (b)1 of this paragraph. Facilities burning used oil for energy recovery under the following conditions are not subject to this paragraph:

      - (i) The used oil is burned by the generator in an on-site space heater under the provisions of subparagraph (3)(d) of this rule; or
      - (ii) 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.
    - 2. Other Applicable Provisions

Used oil burners who conduct the following activities are also subject to the requirements of other applicable provisions of this rule as indicated below.

      - (i) Burners who generate used oil must also comply with paragraph (3) of this rule;
      - (ii) Burners who transport used oil must also comply with paragraph (5) of this rule;
      - (iii) Except as provided in part (b)2 of this paragraph, burners who process or re-refine used oil must also comply with paragraph (6) of this rule;
      - (iv) Burners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in

(Rule 0400-12-01-.11, continued)

subparagraph (2)(b) of this rule must also comply with paragraph (8) of this rule; and

- (v) Burners who dispose of used oil, including the use of used oil as a dust suppressant, must comply with paragraph (9) of this rule.

3. Specification Fuel

This paragraph does not apply to persons burning used oil that meets the used oil fuel specification of subparagraph (2)(b) of this rule, provided that the burner complies with the requirements of paragraph (8) of this rule.

(b) Restrictions on Burning [40 CFR 279.61]

1. Off-specification used oil fuel may be burned for energy recovery in only the following devices:

- (i) Industrial furnaces identified in Rule 0400-12-01-.01(2)(a);
- (ii) Boilers, as defined in Rule 0400-12-01-.01(2)(a) 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 subparagraph (3)(d) of this rule; or
- (iii) Hazardous waste incinerators subject to regulation under Rule 0400-12-01-.05(15) or .06(15).

2. (i) With the following exception, used oil burners may not process used oil unless they also comply with the requirements of paragraph (6) of this rule.
- (ii) 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.

(c) Notification [40 CFR 279.62]

1. Identification Numbers

Used oil burners which have not previously complied with the notification requirements of Rule 0400-12-01-.03(2) must comply with these requirements and obtain an Installation Identification Number.

2. Mechanics of Notification

A used oil burner who has not received an Installation Identification Number may obtain one by notifying the Commissioner of their used oil activity by submitting either:

(Rule 0400-12-01-.11, continued)

- (i) A completed Solid Waste Management Notification, Solid Waste Management Notification Schedule B, and Hazardous Waste Notification Forms; or  

(To obtain the forms call Tennessee Department of Environment and Conservation, Division of Solid Waste Management (800) 237-7018)
  - (ii) A letter requesting an Installation Identification Number. Call the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, Used Oil Management Program at (800) 237-7018 to determine where to send a letter requesting an Installation 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.
- (d) Rebuttable Presumption for Used Oil [40 CFR 279.63]
1. To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of item (2)(a)2(i)(II) of this rule, 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.
  2. The used oil burner must determine if the used oil contains above or below 1,000 ppm total halogens by:
    - (i) Testing the used oil;
    - (ii) Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or
    - (iii) If the used oil has been received from a processor/re-refiner subject to regulation under paragraph (6) of this rule; using information provided by the processor/re-refiner.
  3. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Rule 0400-12-01-.02(4). The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Rule 0400-12-01-.02(5) Appendix VIII).
    - (i) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in part (3)(e) of this rule, to reclaim

(Rule 0400-12-01-.11, continued)

metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

- (ii) 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.

#### 4. Record Retention

Records of analyses conducted or information used to comply with parts 1, 2 and 3 of this subparagraph must be maintained by the burner for at least 3 years.

#### (e) Used Oil Storage [40 CFR 279.64]

Used oil burners are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR part 112) in addition to the requirements of this paragraph. Used oil burners are also subject to the Underground Storage Tank standards (Rules 0400-18-01-.01 through -.11) 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 paragraph.

##### 1. Storage Units

Used oil burners may not store used oil in units other than tanks, containers, or units subject to regulation under Rules 0400-12-01-.05 or .06.

##### 2. Condition of Units

Containers and aboveground tanks used to store oil at burner facilities must be:

- (i) In good condition (no severe rusting, apparent structural defects or deterioration); and
- (ii) Not leaking (no visible leaks).

##### 3. Secondary Containment for Containers

Containers used to store used oil at burner facilities must be equipped with a secondary containment system.

- (i) 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.
- (ii) 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.

##### 4. Secondary Containment for Existing Aboveground Tanks

(Rule 0400-12-01-.11, continued)

Existing aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system.

- (i) 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.
- (ii) 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.

5. 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.

- (i) 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.
- (ii) 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.

6. Labels

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

7. Response to Releases

Upon detection of a release of used oil to the environment that is not subject to the requirements of the Underground Storage Tank standards (Rules 0400-18-01-.01 through -.11), and which occurred after July 1, 1993, the effective date of the used oil regulations in Tennessee, a burner must perform the following cleanup steps:

- (i) Stop the release;



(Rule 0400-12-01-.11, continued)

- (ii) Contain the released used oil;
- (iii) Clean up and manage properly the released used oil and other materials; and
- (iv) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(f) Tracking [40 CFR 279.65]

1. 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:

- (i) The name and address of the transporter who delivered the used oil to the burner;
- (ii) The name and address of the generator or processor/re-refiner from whom the used oil was sent to the burner;
- (iii) The Installation Identification Number of the transporter who delivered the used oil to the burner;
- (iv) The Installation Identification Number (if applicable) of the generator or processor/re-refiner from whom the used oil was sent to the burner;
- (v) The quantity of used oil accepted; and
- (vi) The date of acceptance.

2. Record Retention

The records described in part 1 of this subparagraph must be maintained for at least three years.

(g) Notices [40 CFR 279.66]

1. 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:

- (i) The burner has notified the Department stating the location and general description of his used oil management activities; and
- (ii) The burner will burn the used oil only in an industrial furnace or boiler identified in part (b)1 of this paragraph.

2. Certification Retention

(Rule 0400-12-01-.11, continued)

The certification described in part 1 of this subparagraph 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.

(h) Management of Residues [40 CFR 279.67]

Burners who generate residues from the storage or burning of used oil must manage the residues as specified in part (2)(a)5 of this rule.

(8) Standards for Used Oil Fuel Marketers [40 CFR 279 Subpart H]

(a) Applicability [40 CFR 279.70]

1. Any person who conducts either of the following activities is subject to the requirements of this paragraph:
  - (i) Directs a shipment of off-specification used oil from their facility to a used oil burner; or
  - (ii) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in subparagraph (2)(b) of this rule.
2. The following persons are not marketers subject to this paragraph:
  - (i) 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 paragraph;
  - (ii) 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 subparagraph (2)(b) of this rule.
3. Any person subject to the requirements of this paragraph must also comply with one of the following:
  - (i) Paragraph (3) of this rule - Standards for Used Oil Generators;
  - (ii) Paragraph (5) of this rule - Standards for Used Oil Transporters and Transfer Facilities;
  - (iii) Paragraph (6) of this rule - Standards for Used Oil Processors and Re-refiners; or
  - (iv) Paragraph (7) of this rule - Standards for Used Oil Burners who Burn Off-Specification Used Oil for Energy Recovery.

(b) Prohibitions [40 CFR 279.71]

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

(Rule 0400-12-01-.11, continued)

1. Has an Installation Identification Number; and
2. Burns the used oil in an industrial furnace or boiler identified in part (7)(b)1 of this rule.

(c) On-specification Used Oil Fuel [40 CFR 279.72]

1. 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 subparagraph (2)(b) of this rule by performing analyses or obtaining copies of analyses or other information documenting that the used oil fuel meets the specifications.

2. 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 subparagraph (2)(b) of this rule, must keep copies of analyses of the used oil (or other information used to make the determination) for three years.

(d) Notification [40 CFR 279.73]

1. Identification Numbers

A used oil fuel marketer subject to the requirements of this subpart who has not previously complied with the notification requirements of Rule 0400-12-01-.03(2) must comply with these requirements and obtain an Installation Identification Number.

2. A marketer who has not received an Installation Identification Number may obtain one by notifying the Commissioner of their used oil activity by submitting either:

- (i) A completed Solid Waste Management Notification, Solid Waste Management Notification Schedule B, and Hazardous Waste Notification Forms; or

(To obtain the forms call the Tennessee Department of Environment and Conservation, Division of Solid Waste Management at (800) 237-7018)

- (ii) A letter requesting an Installation 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).

(Rule 0400-12-01-.11, continued)

(e) Tracking [40 CFR 279.74]

1. 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:

- (i) The name and address of the transporter who delivers the used oil to the burner;
- (ii) The name and address of the burner who will receive the used oil;
- (iii) The Installation Identification Number of the transporter who delivers the used oil to the burner;
- (iv) The Installation Identification Number of the burner;
- (v) The quantity of used oil shipped; and
- (vi) The date of shipment.

2. 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 subparagraph (2)(b) of this rule 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:

- (i) The name and address of the facility receiving the shipment;
- (ii) The quantity of used oil fuel delivered;
- (iii) The date of shipment or delivery; and
- (iv) 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 part (c)1 of this paragraph.

3. Record Retention

The records described in parts 1 and 2 of this subparagraph must be maintained for at least three years.

(f) Notices [40 CFR 279.75]

1. 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:

(Rule 0400-12-01-.11, continued)

- (i) The burner has notified the Department stating the location and general description of used oil management activities; and
- (ii) The burner will burn the off-specification used oil only in an industrial furnace or boiler identified in part (7)(b)1 of this rule.

2. Certification Retention

The certification described in part 1 of this subparagraph must be maintained for three years from the date the last shipment of off-specification used oil is shipped to the burner.

(9) Standards for Use as a Dust Suppressant and Disposal of Used Oil

(a) Applicability [40 CFR 279.80]

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

(b) Disposal [40 CFR 279.81]

1. Disposal of Hazardous Used Oils

Used oils that are identified as a hazardous waste and cannot be recycled in accordance with this rule must be managed in accordance with the hazardous waste management requirements of Rules 0400-12-01-.01 through .07, .09 and .10.

2. Disposal of Nonhazardous Used Oils

Used oils that are not hazardous wastes and cannot be recycled under this rule must be disposed in accordance with the requirements of T.C.A. §§68-211-101 et seq.

(c) Use as a Dust Suppressant [40 CFR 279.82]

1. The use of used oil as a dust suppressant is prohibited in Tennessee.

**Authority:** T.C.A. §§ 68-211-101 et seq., 68-211-1001 et seq., 68-212-101 et seq. and 4-5-201 et seq.

**Administrative History:** Original rule filed June 19, 2012; effective September 17, 2012. Rule was renumbered from 1200-01-11-.11.