

## § 279.61

## 40 CFR Ch. I (7-1-23 Edition)

that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in § 279.11 must also comply with subpart H of this part; and

(5) Burners who dispose of used oil, including the use of used oil as a dust suppressant, must comply with subpart I of this part.

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

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26426, May 3, 1993]

### § 279.61 Restrictions on burning.

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

(1) Industrial furnaces identified in § 260.10 of this chapter;

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

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

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

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

(3) Hazardous waste incinerators subject to regulation under subpart O of parts 264 or 265 of this chapter.

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

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

### § 279.62 Notification.

(a) *Identification numbers.* Used oil burners which have not previously complied with the notification requirements of RCRA section 3010 must com-

ply with these requirements and obtain an EPA identification number.

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

(1) A completed EPA Form 8700-12 (To obtain EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

(2) A letter requesting an EPA identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following information:

- (i) Burner company name;
- (ii) Owner of the burner company;
- (iii) Mailing address for the burner;
- (iv) Name and telephone number for the burner point of contact;
- (v) Type of used oil activity; and
- (vi) Location of the burner facility.

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 33342, June 17, 1993]

### § 279.63 Rebuttable presumption for used oil.

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

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

- (1) Testing the used oil;
- (2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or
- (3) If the used oil has been received from a processor/re-refiner subject to regulation under subpart F of this part, using information provided by the processor/re-refiner.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in subpart D of part 261 of this chapter. The owner or operator may rebut the presumption by demonstrating

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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 appendix VIII of part 261 of this chapter).

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

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

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

[57 FR 41612, Sept. 10, 1992, as amended at 59 FR 10560, Mar. 4, 1994; 70 FR 34591, June 14, 2005; 71 FR 40280, July 14, 2006]

### § 279.64 Used oil storage.

Used oil burners are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR part 112) in addition to the requirements of this subpart. Used oil burners are also subject to the Underground Storage Tank (40 CFR part 280) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

(a) *Storage units.* Used oil burners may not store used oil in units other than tanks, containers, or units subject to regulation under parts 264 or 265 of this chapter.

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

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

(2) Not leaking (no visible leaks).

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

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

(i) Dikes, berms or retaining walls; and

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

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

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

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

(i) Dikes, berms or retaining walls; and

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

(iii) An equivalent secondary containment system.

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

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

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

(i) Dikes, berms or retaining walls; and

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

(iii) An equivalent secondary containment system.