

**§ 279.11**

greater. PCB-containing used oil subject to the requirements of this Part 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 Part, 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 Part or Part 761 of this chapter.

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993; 59 FR 10559, Mar. 4, 1994; 59 FR 10559, Mar. 4, 1994; 61 FR 33693, June 28, 1996; 63 FR 24969, May 6, 1998; 63 FR 37782, July 14, 1998; 68 FR 44665, July 30, 2003; 70 FR 34591, June 14, 2005]

**§ 279.11 Used oil specifications.**

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

TABLE 1—USED OIL NOT EXCEEDING ANY SPECIFICATION LEVEL IS NOT SUBJECT TO THIS PART 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>
NOTE: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).	

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

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

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[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993]

**§ 279.12 Prohibitions.**

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

(b) *Use as a dust suppressant.* The use of used oil as a dust suppressant is prohibited, except when such activity takes place in one of the states listed in § 279.82(c).

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

(1) Industrial furnaces identified in § 260.10 of 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.

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

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993]

**Subpart C—Standards for Used Oil Generators**

**§ 279.20 Applicability.**

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

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

(2) *Vessels.* Vessels at sea or at port are not subject to this subpart. For

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purposes of this subpart, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the person(s) removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this subpart once the used oil is transported ashore. The co-generators may decide among them which party will fulfill the requirements of this subpart.

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

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

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

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

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

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

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

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

governing the management or discharge of wastewaters;

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

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

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

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

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

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

[57 FR 41612, Sept. 10, 1992, as amended at 59 FR 10560, Mar. 4, 1994]

### § 279.21 Hazardous waste mixing.

(a) Mixtures of used oil and hazardous waste must be managed in accordance with § 279.10(b).

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

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993]