

**§ 279.41**

**40 CFR Ch. I (7-1-06 Edition)**

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

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

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

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

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

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

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

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

(5) Transporters who dispose of used oil, 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 58 FR 26425, May 3, 1993]

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

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

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

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

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

**§ 279.42 Notification.**

(a) *Identification numbers.* Used oil transporters who have not previously complied with the notification requirements of RCRA section 3010 must comply with these requirements and obtain an EPA identification number.

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

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

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(2) A letter requesting an EPA identification number.

Call RCRA/Superfund Hotline to determine where to send a letter requesting an EPA 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.

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993; 58 FR 33342, June 17, 1993]

### § 279.43 Used oil transportation.

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

- (1) Another used oil transporter, provided that the transporter has obtained an EPA identification number;
- (2) A used oil processing/re-refining facility who has obtained an EPA identification number;
- (3) An off-specification used oil burner facility who has obtained an EPA identification number; or
- (4) An on-specification used oil burner facility.

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

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

(2) If a discharge of used oil occurs during transportation and an official (State or local government or a Fed-

eral Agency) acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, that official may authorize the removal of the used oil by transporters who do not have EPA identification numbers.

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

- (i) Give notice, if required by 49 CFR 171.15 to the National Response Center (800-424-8802 or 202-426-2675); and
- (ii) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.

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

(5) A transporter must clean up any used oil discharged 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.

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

### § 279.44 Rebuttable presumption for used oil.

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

(b) The transporter must make this determination by:

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

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