

**Sec. 22a-449(c)-119. Standards for the management of used oil**

**(a) Incorporation by Reference**

(1) 40 CFR 279 is incorporated by reference in its entirety except as provided in subdivision (2) of this subsection and except for the provisions of this subdivision which are not incorporated:

(A) 40 CFR 279.10(b)(3) (which relates to mixtures of used oil and hazardous waste from conditionally exempt small quantity generators); and

(B) 40 CFR 279.82(b) and (c) (which relates to used oil as a dust suppressant).

(2) The provisions of this subdivision are incorporated by reference with the specified changes:

(A) 40 CFR 279.1

— in the introductory sentence delete “260.10”

— in the definition of “Existing tank” delete “the authorized used oil program for the state in which the tank is located” and replace with “this section”

— in the definition of “New tank” delete “the authorized used oil program for the state in which the tank is located” and replace with “this section”

— after the definition of “New tank” add two new definitions as follows:

“Off-Specification” or “Off-Specification Used Oil” means used oil that has not been tested, has not been tested in accordance with the required test methods or for all of the required parameters, has been designated as off-specification, or, based upon analysis performed in accordance with the required test methods, exceeds any one or more of the allowable levels of the constituents or properties listed in Table 1 of 40 CFR 279.11. References to “used oil not meeting the specification requirements of 279.11”, or similar references, shall be deemed to mean off-specification used oil as defined in this definition.”

“On-Specification” or “On-Specification Used Oil” means used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, that, based upon analysis performed in accordance with the required test methods and for all of the required parameters, exceeds none of the allowable levels for the constituents and properties listed in Table 1 of 40 CFR 279.11. References to “used oil that meets the used oil fuel specification of 279.11”, or similar references, shall be deemed to mean on-specification used oil as defined in this definition.”

— delete the definition of “Used Oil” and replace with the following: “Used oil” means any oil refined from crude oil or synthetic oil, that: (A) has been used and as a result of such use is contaminated by physical or chemical impurities; or (B) is no longer suitable for the services for which it was manufactured due to the presence of impurities or a loss of original properties.”

— after the definition of “Used Oil Aggregation Point” add a new definition as follows: “Used Oil Burned For Energy Recovery” or “Used Oil Fuel” means used oil with heating value of more than 5,000 Btu/lb.

— in the definition of “Used Oil Burner” after “means” add “a person who owns or operates”

— in the definition of “Used oil collection center” delete “that is registered/licensed/permitted/recognized by a state/county/municipal government” and replace with “for which the owner or operator has a valid and effective permit issued by

the commissioner authorizing such owner or operator”

— in the definition of “Used oil transfer facility” delete both references to “35” and replace them with “10”

(B) 40 CFR 279.10(b)(1)(ii)

— delete “Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in appendix VIII of part 261 of this chapter).” and replace with “To rebut the presumption that the used oil has been mixed with the hazardous waste designated in 40 CFR 261.31(a) as F001 or F002, a person shall demonstrate by analysis or other means that none of the following halogenated hazardous waste constituents are present in the used oil at greater than 100 parts per million: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2-trichloroethane. To rebut the presumption that the used oil has been mixed with any other hazardous waste listed in 40 CFR 261, Subpart D, (i.e., hazardous wastes other than F001 and F002) a person shall demonstrate by analysis or other means that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 CFR 261). Unless and until such person has rebutted the presumption, a used oil containing more than 1,000 parts per million total halogens shall be considered a hazardous waste and shall be managed as such.”

(C) 40 CFR 279.10(b)(2)

— delete “Characteristic hazardous waste. Mixtures of used oil and hazardous waste that solely exhibits one or more of the hazardous waste characteristic identified in subpart C of part 261 of this chapter and mixtures of used oil and hazardous waste that is listed in subpart D solely because it exhibits one or more of the characteristics of hazardous waste identified in subpart C are subject to:” and replace with the following: “Characteristic hazardous waste. This paragraph applies to any mixture of used oil and: a) a waste that is hazardous solely because it exhibits one or more of the hazardous waste characteristics identified in 40 CFR 261, Subpart C; or b) a hazardous waste that is listed in 40 CFR 261, Subpart D solely because it exhibits one or more of the characteristics of hazardous waste identified in 40 CFR 261, Subpart C. Any such mixture shall, based upon testing the mixture according to the methods set forth in 40 CFR 261.24 or based upon knowledge of the characteristics of the mixture in light of the materials or processes used, be subject to:”

(D) 40 CFR 279.10(b)(2)(ii)

— after “chapter” add “provided, no person shall mix a used oil and a hazardous waste that exhibits one or more of the characteristics of a hazardous waste identified in 40 CFR 261, Subpart C for any purpose other than facilitating the recycling of such hazardous waste in a manner provided for in 40 CFR 279.”

(E) 40 CFR 279.10(c)(1)(ii)

— delete paragraph 279.10(c)(1)(ii) and replace with the following: “(ii) Are subject to all applicable provisions of the Connecticut General Statutes and regulations promulgated

thereunder, including but not limited to, section 22a-449(c)-100 to 110, inclusive, of the Regulations of Connecticut State Agencies and if the materials are not hazardous wastes, section 22a-209-1 to 18, inclusive, of the Regulations of Connecticut State Agencies.”

(F) 40 CFR 279.10(i)

— delete “who market” and replace with “who market or burn”

(G) 40 CFR 279.11

— after “unless it is shown” add “through analytical testing”

— after “Table 1.” add “A person determining whether used oil exceeds any allowable level of constituents and properties listed in Table 1 shall do so using: (i) the test methods specified below; or (ii) an alternative method(s) provided that, before use, such alternative method has been approved by the commissioner in writing:

Arsenic – EPA Methods 7060A, 7061A, 7062, 6010B or 6020

Cadmium – EPA Methods 7130, 7131A, 6010B, or 6020

Chromium – EPA Methods 7190, 7191, 6010B, or 6020

Lead – EPA Methods 7420, 7421, 6010B, or 6020

Flash Point – EPA Methods 1010 or 1020A

Total Halogens – EPA Methods 9075, 9076, 9077, 5050 coupled with either 9056 or 9253, or American Society for Testing and Materials (“ASTM”) Method D808-95.

For purposes of this subparagraph, all references to EPA Methods shall mean the test method as described in EPA Publication SW-846, “Test Methods for Evaluating Solid Waste—Physical/Chemical Methods, Edition III.”

(H) 40 CFR 279.12(b)

— delete “, except when such activity takes place in one of the states listed in 279.82(c)”

(I) 40 CFR 279.12(c)(2)(iii)

— delete “the burner” and replace with “the heater”

(J) 40 CFR 279.12

— add a new paragraph (d) as follows: “(d) No person shall burn used oil in a boiler, heater or similar device used to heat, in whole or in part, a residential building or structure associated with any such building (e.g., an outbuilding or garage). In addition, no person shall sell, offer for sale or make available, used oil for burning in a boiler, heater or similar device used to heat, in whole or in part, a residential building or structure associated with a residential building (e.g., an outbuilding or garage).”

(K) 40 CFR 279.20(b)

— delete “are subject to” and replace with “are also subject to”

(L) 40 CFR 279.21(b)

— after “refrigeration units.” add the following sentence: “Unless and until such person has rebutted the presumption, a used oil containing more than 1,000 parts per million total halogens shall be considered a hazardous waste and shall be managed as such.”

(M) 40 CFR 279.22 introductory paragraph

— delete “(40 CFR part 280) standards” and replace with “requirements set forth in sections 22a-449(d)-1 and 22a-449(d)-101 to 113, inclusive, of the Regulations of Connecticut State Agencies”

(N) 40 CFR 279.22(d)

— delete “part 280, subpart F of this chapter and which has occurred after the effective

date of the recycled used oil management program in effect in the State in which the release is located” and replace with “section 22a-449(d)-1(j) or section 22a-449(d)-106 of the Regulations of Connecticut State Agencies”

(O) 40 CFR 279.22(d)(3)

— after “other materials” add “, including remediation of any part of the environment affected by the release”

(P) 40 CFR 279.23

— at the end of paragraph (b) delete “and”

— at the end of paragraph (c) delete the period and replace with “; and”

— after paragraph (c), add a new paragraph (d) as follows: “(d) The used oil has a heating value of more than 5,000 Btu/lb.”

(Q) 40 CFR 279.24(a)(3)

— delete “is registered, licensed, permitted, recognized by a state/county/municipal government” and replace with “has a valid and effective permit issued by the commissioner authorizing the owner or operator of the used oil collection center”

(R) 40 CFR 279.31(b)(2)

— delete “Be registered, licensed, permitted, recognized by a state/county/municipal government” and replace with “Have a valid and effective permit issued by the commissioner authorizing such owner or operator “

(S) 40 CFR 279.40(c)

— on each appearance of the word, replace “trucks” with “transport vehicles, as defined in 49 CFR 171.8,”

(T) 40 CFR 279.40(d)

— delete “subject to” and replace with “subject to the requirements of”

(U) 40 CFR 279.42(a)

— insert the following before the first full sentence: “Except as is provided for in 40 CFR 279.40(a)(1) to (a)(4), inclusive, a used oil transporter shall not transport used oil without having first obtained an EPA identification number.”

(V) 40 CFR 279.43(c)(2)

— delete “an official (State or local government or a Federal Agency)” and replace with “the commissioner or an official of a federal agency”

— delete “EPA identification numbers” and add “either an EPA identification number, a DEP transporter permit or both”

— at the end of the paragraph add “Except as provided for in this paragraph, the used oil must be managed and disposed of in accordance with the state hazardous waste management regulations.”

(W) 40 CFR 279.43(c)(3)(i)

— after the telephone number for the National Response Center add “and give notice to the commissioner, using the 24-hour Emergency Spill Response telephone number at (860) 424-3338 or, if that number is unavailable, at (860) 424-3333. In addition to this oral notification, the transporter shall comply with all applicable reporting and notification requirements regarding the release, including but not limited to, reporting in accordance with section 22a-450 of the Connecticut General Statutes.”

(X) 40 CFR 279.43(c)(5)

- delete “discharged” and replace with “discharge”
- after “local officials” add “(to the extent that actions required or approved by local officials are consistent with those required or approved by federal or state officials)”
- (Y) 40 CFR 279.44(a)
  - in the phrase “used oil being transporter” change “transporter” to “transported”
  - delete “above or below” and replace with “less than, greater than or equal to”
- (Z) 40 CFR 279.44(b)(1)
  - delete the entire paragraph and replace with the following: “(b)(1) Testing a representative sample of the used oil using any one of the following test methods: (i) EPA Method 9075, 9076 or 9077; (ii) EPA Method 5050, coupled with either EPA Method 9056 or 9253; (iii) American Society for Testing and Materials (“ASTM”) Method D808-95; or (iv) an alternative method(s) which before use has been approved by the commissioner in writing. For purposes of this subparagraph, all references to EPA Methods shall mean the test method as described in EPA Publication SW-846, “Test Methods for Evaluating Solid Waste—Physical/Chemical Methods, Edition III; or”
- (AA) 40 CFR 279.44(b)(2)
  - after “processes used” add “, provided that the transporter retains documentation demonstrating whether each used oil accepted by such transporter contains greater than, less than or equal to 1,000 parts per million total halogens”
- (BB) 40 CFR 279.44(c)
  - delete “greater than or equal to” and replace with “more than”
  - delete “The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in appendix VIII of part 261 of this chapter).” and replace with “To rebut the presumption that the used oil has been mixed with the hazardous waste designated in 40 CFR 261.31(a) as F001 or F002, a transporter shall demonstrate by analysis or other means that none of the following halogenated hazardous waste constituents are present in the used oil at greater than 100 parts per million: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2-trichloroethane. To rebut the presumption that the used oil has been mixed with any other hazardous waste listed in 40 CFR 261, Subpart D, (i.e., hazardous wastes other than F001 and F002) a transporter shall demonstrate by analysis or other means that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 CFR 261). Unless and until such transporter has rebutted the presumption, a used oil containing more than 1,000 parts per million total halogens shall be considered a hazardous waste and shall be managed as such.”
- (CC) 40 CFR 279.45 introductory paragraph
  - delete “(40 CFR part 280) standards” and replace with “requirements set forth in sections 22a-449(d)-1 and 22a-449(d)-101 to 113, inclusive, of the Regulations of Connecticut State Agencies”

(DD) 40 CFR 279.45(a)

— delete both references to “35” and replace with “10”

— delete “subpart F of this chapter” and replace with “40 CFR 279, subpart F”

(EE) 40 CFR 279.45(h)

— delete “part 280, subpart F of this chapter and which has occurred after the effective date of the recycled used oil management program in effect in the State in which the release is located” and replace with “section 22a-449(d)-1(j) or section 22a-449(d)-106 of the Regulations of Connecticut State Agencies”

(FF) 40 CFR 279.45(h)(3)

— after “other materials” add “, including remediation of any part of the environment affected by the release”

(GG) 40 CFR 279.51(a)

— insert the following before the first full sentence: “Except as is provided for in 40 CFR 279.50(a)(1) and (a)(2), the owner or operator of a facility that processes used oil shall not process used oil without having first obtained an EPA identification number.”

(HH) 40 CFR 279.52(a)

— delete “Owners and operators of used oil processors and re-refiners facilities” and replace with “Owners or operators of facilities processing or re-refining used oil”

(II) 40 CFR 279.52(a)(3)

— at the end of the paragraph add “Such systems and equipment shall be tested and maintained as necessary to assure its proper operation in time of an emergency at least once every calendar month and after each use.”

(JJ) 40 CFR 279.52(b)

— delete “Owners and operators of used oil processors and re-refiners facilities” and replace with “Owners or operators of facilities processing or re-refining used oil”

(KK) 40 CFR 279.52(b)(1)(ii)

— replace “or release or” with “or release of”

(LL) 40 CFR 279.52(b)(6)(ii)

— delete “analysts” and replace with “analysis”

(MM) 40 CFR 279.52(b)(6)(iv)(B)

— after the telephone number for the National Response Center add “and give notice to the commissioner, using the 24-hour Emergency Spill Response telephone number at (860) 424-3338 or, if that number is unavailable, at (860) 424-3333. In addition to this oral notification, the transporter shall comply with all applicable reporting and notification requirements regarding the release, including, but not limited to, reporting in accordance with section 22a-450 of the Connecticut General Statutes.”

(NN) 40 CFR 279.52(b)(6)(v)

— delete “operation” and replace with “operations”

(OO) 40 CFR 279.53(a)

— delete “above or below” and replace with “less than, greater than or equal to”

(PP) 40 CFR 279.53(b)(1)

— delete the entire paragraph and replace with the following: “(b)(1) Testing a representative sample of the used oil using any one of the following test methods: (i) EPA Method 9075, 9076 or 9077; (ii) EPA Method 5050, coupled with either EPA Method 9056

or 9253; (iii) American Society for Testing and Materials (“ASTM”) Method D808-95; or (iv) an alternative method(s) which before use has been approved by the commissioner in writing. For purposes of this subparagraph, all references to EPA Methods shall mean the test method as described in EPA Publication SW-846, “Test Methods for Evaluating Solid Waste—Physical/Chemical Methods, Edition III; or”

(QQ) 40 CFR 279.53(b)(2)

— at the end of the sentence add “, provided that the owner or operator retains documentation demonstrating whether each shipment of used oil accepted by such owner or operator and each used oil generated by such owner or operator contains greater than, less than or equal to 1,000 parts per million total halogens”

(RR) 40 CFR 279.53(c)

— delete “greater than or equal to” and replace with “more than”

— delete “The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in appendix VIII of part 261 of this chapter).” and replace with “To rebut the presumption that the used oil has been mixed with the hazardous waste designated in 40 CFR 261.31(a) as F001 or F002, the owner or operator shall demonstrate by analysis or other means that none of the following halogenated hazardous waste constituents are present in the used oil at greater than 100 parts per million: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2-trichloroethane. To rebut the presumption that the used oil has been mixed with any other hazardous waste listed in 40 CFR 261, Subpart D, (i.e., hazardous wastes other than F001 and F002) the owner or operator shall demonstrate by analysis or other means that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 CFR 261). Unless and until such owner or operator has rebutted the presumption, a used oil containing more than 1,000 parts per million total halogens shall be considered a hazardous waste and shall be managed as such.”

(SS) 40 CFR 279.53

— add a new paragraph (d) as follows: “Record Retention. Records of analysis conducted or information used to comply with paragraphs (a), (b) and (c) of this section shall be maintained by the owner or operator for at least three years from the date such records are created.”

(TT) 40 CFR 279.54 introductory paragraph

— delete “(40 CFR part 280) standards” and replace with “requirements set forth in sections 22a-449(d)-1 and 22a-449(d)-101 to 113, inclusive, of the Regulations of Connecticut State Agencies”

(UU) 40 CFR 279.54(g)

— delete “part 280, subpart F of this chapter and which has occurred after the effective date of the recycled used oil management program in effect in the State in which the release is located” and replace with “section 22a-449(d)-1(j) or section 22a-449(d)-106 of the

*Regulations of Connecticut State Agencies*

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Regulations of Connecticut State Agencies”

(VV) 40 CFR 279.54(g)(3)

— after “other materials” add “, including remediation of any part of the environment affected by the release”

(WW) 40 CFR 279.54(h)(1)(i)

— after “containment system components,” add “contaminated surface waters, contaminated groundwaters,”

(XX) 40 CFR 279.54(h)(2)(ii)

— after the term “containment system components” add “contaminated surface waters, contaminated groundwaters,”

(YY) 40 CFR 279.55 introductory paragraph

— delete “Owners or operators of used oil processing and re-refining facilities” and replace with “Owners or operators of facilities processing or re-refining used oil”

(ZZ) 40 CFR 279.55(b)

— delete paragraphs (b)(1), (2) and (3), and replace with the following:

“(1) 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 40 CFR 261; or

(ii) A method shown to be equivalent under 40 CFR 260.21;

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

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

(4) The methods used to analyze used oil for the constituents and properties specified in 40 CFR 279.11.”

(AAA) 40 CFR 279.57(a)(2)

— delete “closure of the facility” and replace with “the owner or operator has completed closure of all units used for management of used oil at the facility in accordance with the closure requirements of 40 CFR 279.54 and subsection (d) of this section.”

— in 40 CFR 279.57(a)(2)(i), delete “and” after “279.55;”

— in 40 CFR 279.57(a)(2)(ii), delete “an specified in § 279.52(b).” and replace with “as specified in 40 CFR 279.52(b); and”

— add paragraph (a)(2)(iii) as follows: “(iii) Any other information required to be in the operating record (e.g., 40 CFR 279.52(a)(6)(D)(ii)).”

(BBB) 40 CFR 279.57(b)

— after “Regional Administrator” add “on such forms as may be prescribed by the commissioner, or in the absence of such forms”

— in 279.57(b)(2) delete “and”

— in 279.57(b)(3) delete the period and replace with “; and”

— add paragraph (b)(4) as follows: “(4) Any other information which the commissioner specifies shall be in such letter/report. The commissioner shall specify such information in writing before such letter/report must be submitted.”

(CCC) 40 CFR 279.59

— delete “re-fining” and replace with “re-refining”



(DDD) 40 CFR 279.60(a)

— after “A used oil burner is” add “a person who owns or operates”

(EEE) 40 CFR 279.61(a)(2)(iii)

— delete “the burner” and replace with “the heater”

(FFF) 40 CFR 279.61

— add a new paragraph (c) as follows: “(c) No person shall burn used oil in a boiler, heater or similar device used to heat, in whole or in part, a residential building or structure associated with any such building (e.g., an outbuilding or garage). In addition, no person shall sell, offer for sale or make available, used oil for burning in a boiler, heater or similar device used to heat, in whole or in part, a residential building or structure associated with a residential building (e.g., an outbuilding or garage).”

(GGG) 40 CFR 279.63(a)

— delete “above or below” and replace with “less than, greater than or equal to”

(HHH) 40 CFR 279.63(b)

— delete “above or below” and replace with “less than, greater than or equal to”

(III) 40 CFR 279.63(b)(1)

— delete the entire paragraph and replace with the following: “(b)(1) Testing a representative sample of the used oil using any one of the following test methods: (i) EPA Method 9075, 9076 or 9077; (ii) EPA Method 5050, coupled with either EPA Method 9056 or 9253; (iii) American Society for Testing and Materials (“ASTM”) Method D808-95; or (iv) an alternative method(s) which, before use, has been approved by the commissioner in writing. For purposes of the subparagraph, all references to EPA Methods shall mean the test method as described in EPA Publication SW-846, “Test Methods for Evaluating Solid Waste—Physical/Chemical Methods, Edition III;”

(JJJ) 40 CFR 279.63(b)(2)

— after “processes used” add “, provided that the used oil burner retains documentation demonstrating whether each used oil accepted by such burner and each used oil generated by such burner contains less than, greater than or equal to 1,000 parts per million total halogens”

(KKK) 40 CFR 279.63(c)

— delete “greater than or equal to” and replace with “more than”

— delete “The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in appendix VIII of part 261 of this chapter).” and replace with “To rebut the presumption that the used oil has been mixed with the hazardous waste designated in 40 CFR 261.31(a) as F001 or F002, the owner or operator shall demonstrate by analysis or other means that none of the following halogenated hazardous waste constituents are present in the used oil at greater than 100 parts per million: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2-trichloroethane. To rebut the presumption that the used oil has been mixed with any other hazardous waste listed in 40 CFR 261, Subpart D, (i.e., hazardous wastes other than F001 and F002) the

owner or operator shall demonstrate by analysis or other means that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 CFR 261). Unless and until such owner or operator has rebutted the presumption, a used oil containing more than 1,000 parts per million total halogens shall be considered a hazardous waste and shall be managed as such.”

(LLL) 40 CFR 279.63(c)(2)

— delete “are destined for reclamation” and replace with “have first been reclaimed”

(MMM) 40 CFR 279.64 introductory paragraph

— delete “(40 CFR part 280) standards” and replace with “requirements set forth in sections 22a-449(d)-1 and 22a-449(d)-101 to 113, inclusive, of the Regulations of Connecticut State Agencies”

(NNN) 40 CFR 279.64(e)

— delete “*Secondary containment for existing aboveground tanks.*” and replace with “*Secondary containment for new aboveground tanks.*”

(OOO) 40 CFR 279.64(g)

— delete “part 280, subpart F of this chapter and which has occurred after the effective date of the recycled used oil management program in effect in the State in which the release is located” and replace with “section 22a-449(d)-1(j) or section 22a-449(d)-106 of the Regulations of Connecticut State Agencies”

(PPP) 40 CFR 279.64(g)(3)

— after “other materials” add “, including remediation of any part of the environment affected by the release”

(QQQ) 40 CFR 279.66(b)

— replace “The certification” with “A copy of the certification”

— after “maintained” add “by such burner”

(RRR) 40 CFR 279.70(a)

— delete “Any person who conducts either of the following activities is subject to the requirements of this subpart:” and replace with “Except as provided in paragraph (b) of this section, any person who conducts either of the following activities is a marketer and is subject to the requirements of this subpart:”

(SSS) 40 CFR 279.70(b)(1)

— delete the first sentence and replace with the following: “Used oil generators, and transporters who transport used oil received only from generators, unless the generator or transporter: (1) directs a shipment of off-specification used oil from their facility to a used oil burner; or (2) is the first to claim that used oil that is to be burned for energy recovery is on-specification used oil.”

(TTT) 40 CFR 279.71

— at the beginning of this section add a new paragraph as follows: “A marketer shall not sell, offer for sale or make available, used oil for burning in a boiler, heater or similar device used to heat, in whole or in part, a residential building or structure associated with a residential building (e.g., an outbuilding or garage).”

(UUU) 40 CFR 279.72(a)

— delete all that follows after “§ 279.11” and replace with the following: “. Any such

person shall make this determination by performing analyses or obtaining copies of analyses of such used oil.”

(VVV) 40 CFR 279.72(b)

— delete “(or other information used to make the determination)”

(WWW) 40 CFR 279.74(b)(4)

— delete “or other information”

(XXX) 40 CFR 279.75(b)

— after “maintained” add “by the recipient”

(YYY) 40 CFR 279.81

— delete paragraphs (a) and (b) and replace with the following: “(a) Used oil that is not or cannot be recycled as provided for in this part remains subject to all applicable provisions of the Connecticut General Statutes and regulations promulgated thereunder, including but not limited to section 22a-454 of the Connecticut General Statutes and sections 22a-449(c)-100 to 110, inclusive, of the Regulations of Connecticut State Agencies and if the used oil is not a hazardous waste, section 22a-209-1 to 16, inclusive, of the Regulations of Connecticut State Agencies. In addition, no person shall: (1) burn used oil in a boiler, heater or similar device used to heat, in whole or in part, a residential building or structure associated with any such building (e.g., an outbuilding or garage); or (2) sell, offer for sale or make available, used oil for burning in a boiler, heater or similar device used to heat, in whole or in part, a residential building or structure associated with a residential building (e.g., an outbuilding or garage).”

(ZZZ) 40 CFR 279.82(a)

— delete “, except when such activity takes place in one of the states listed in paragraph (c) of this section”

(3) In addition to the provisions incorporated by reference in subdivisions (1) and (2) of this subsection, the provisions in subsections (b) to (e), inclusive, of this section shall also apply.

**(b) Used Oil Generators**

Except as provided for in 40 CFR 279.20(a)(1) to (4), inclusive, the following provisions apply to generators of used oil:

(1)

(A) To ensure that used oil is not a hazardous waste under the rebuttable presumption of 279.10(b)(1)(ii), a used oil generator shall determine whether the total halogen content of each used oil generated by such generator is less than, greater than, or equal to 1,000 parts per million. The generator shall make this determination by:

(i) Testing a representative sample of the used oil using any one of the following test methods: (i) EPA Method 9075, 9076 or 9077; (ii) EPA Method 5050, coupled with either EPA Method 9056 or 9253; (iii) American Society for Testing and Materials (“ASTM”) Method D808-95; or (iv) an alternative method which, before use, has been approved by the commissioner in writing. For purposes of this subparagraph, all references to EPA Methods shall mean the test method as described in EPA Publication SW-846, “Test Methods for Evaluating Solid Waste—Physical/Chemical Methods,” Edition III, as may be amended from time to time; or

(ii) Applying knowledge of the halogen content of the used oil in light of the materials

or processes used by such generator, provided the generator retains documentation demonstrating whether the used oil contains greater than, less than or equal to 1,000 parts per million total halogens.

(B) If a generator's used oil contains more than 1,000 parts per million total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 CFR 261, Subpart D. To rebut the presumption that the used oil has been mixed with the hazardous waste designated in 40 CFR 261.31(a) as F001 or F002, a generator shall demonstrate by analysis or other means that none of the following halogenated hazardous waste constituents are present in the used oil at greater than 100 parts per million: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2-trichloroethane. To rebut the presumption that the used oil has been mixed with any other hazardous waste listed in 40 CFR 261, Subpart D, (i.e., hazardous wastes other than F001 and F002) a generator shall demonstrate by analysis or other means that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 CFR 261). Unless and until such a generator has rebutted the presumption, a used oil containing more than 1,000 parts per million total halogens shall be considered a hazardous waste and shall be managed as such. In addition, the rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins or used oil contaminated with chlorofluorocarbons as provided for in 40 CFR 279.10(b)(1)(ii)(A) and (B).

(C) Record retention. Records of analyses conducted or information used to comply with this subdivision shall be maintained by the generator for at least 3 years from the date the record is first created.

(2) Secondary Containment. Generators shall comply with the following requirements for each storage area, and for each tank or container used to store greater than fifty-five (55) gallons of used oil.

(A) Containers used to store used oil shall be stored on a surface that is sufficiently impervious to prevent any used oil released from such containers from migrating to the soil, groundwater or surface water. In addition, containers used to store used oil that are not within an enclosed building as defined in subparagraph (E) of this subdivision, shall be equipped with a secondary containment system. The secondary containment system shall consist of, at a minimum:

- (i) dikes, berms or retaining walls, and
- (ii) a floor which covers the entire area within the dikes, berms, or retaining walls; or
- (iii) an equivalent secondary containment system.

(B) New and existing aboveground tanks used to store used oil shall be stored on a surface that is sufficiently impervious to prevent any used oil released from such tanks from migrating to the soil, groundwater or surface water.

(C) Existing aboveground tanks used to store used oil that are not within an enclosed building as defined in subparagraph (E) of this subdivision, shall be equipped with a secondary containment system. The secondary containment system shall consist of, at a

minimum:

- (i) dikes, berms or retaining walls, and
- (ii) a floor which covers the entire area within the dikes, berms, or retaining walls except areas where existing portions of the tank meet the ground; or
- (iii) an equivalent secondary containment system.

(D) New aboveground tanks used to store used oil that are not within an enclosed building as defined in subparagraph (E) of this subdivision, shall be equipped with a secondary containment system. The secondary containment system shall consist of, at a minimum:

- (i) dikes, berms or retaining walls, and
- (ii) a floor which covers the entire area within the dikes, berms, or retaining walls; or
- (iii) an equivalent secondary containment system.

(E) As used in subparagraphs (A), (C) and (D) of this subdivision, an “enclosed building” means a structure which is enclosed with a floor, walls and a roof to prevent tanks and containers containing used oil from being exposed to the elements (e.g., precipitation, wind, run-on) and to ensure containment of any used oil released from any tank or container. For purposes of this definition, a wall may consist in part of windows, doors or other openings (such as service bays).

**(c) Used Oil Transporters**

Used oil transporters shall comply with 40 CFR 279.45(d) while transferring used oil from one transport vehicle to another. For purposes of this subsection, each transport vehicle and all associated piping shall be considered a container. Transporters transferring used oil from one transport vehicle to another may also require a permit under section 22a-454(c) of the Connecticut General Statutes.

**(d) Used Oil Processors and Re-refiners**

(1) Closure. The owner or operator of a facility subject to 40 CFR 279, Subpart F shall, within 90 days after receiving the final volume of used oil in a tank or container, remove from such tank or container all used oil. The commissioner may approve, in writing, a longer period if the owner or operator demonstrates that:

(A) The activities required to comply with this paragraph will, of necessity, take longer than 90 days to complete; or

**(B)**

(i) The tank or container at issue is operated in accordance with the requirements of 40 CFR 279.54(a) to (g), inclusive;

(ii) There is a reasonable likelihood that the owner operator or another person will recommence using such tank or container within one year; and

(iii) Closure of such tank or container is incompatible with continued operation of the site; and

(C) The owner or operator has taken and will continue to take all steps deemed necessary by the commissioner to prevent threats to human health and potential releases to the environment from such tank or container.

(2) The owner or operator must complete the closure activities specified in 40 CFR 279.54(h)(1) and (h)(2) within 180 days after the tank or container being closed receives the final volume of used oil. The commissioner may approve, in writing, an extension to

the closure period if the owner or operator demonstrates that:

- (A) The closure activities will, of necessity, take longer than 180 days to complete; or
- (B)
  - (i) The tank or container at issue is operated in accordance with the requirements of 40 CFR 279.54(a) to (g), inclusive;
  - (ii) There is reasonable likelihood that the owner or operator or another person will recommence operation of such tank or container within one year; and
  - (iii) Closure of the tank or container is incompatible with continued operation of the site;
- and
- (C) The owner or operator has taken and will continue to take all steps deemed necessary by the commissioner to prevent threats to human health and potential releases to the environment from such tank or container.

(3) The demonstrations referred to in subdivision (1) and (2) of this subsection must be made as follows:

- (A) The demonstration in subdivision (1) must be made at least 30 days prior to the expiration of the 90 day period referenced in subdivision (1); and
- (B) The demonstration in subdivision (2) must be made at least 30 days prior to the expiration of the 180 day period referenced in subdivision (2).

**(e) Other Applicable Requirements**

Any person subject to section 22a-449(c)-119 of the Regulations of Connecticut State Agencies shall also comply with all applicable provisions of the Connecticut General Statutes, regulations of Connecticut State Agencies, and the terms and conditions of any order or permit, including a general permit, issued by the commissioner regarding used oil. This includes, but is not limited to, the requirement to obtain a permit under section 22a-454 of the Connecticut General Statutes. Compliance with the requirements of section 22a-449(c)-119 of the Regulations of Connecticut State Agencies shall not be deemed to be compliance with and shall not satisfy any other requirement imposed by the Connecticut General Statutes, regulations of Connecticut State Agencies, or an order or permit issued by the commissioner, including a general permit, regarding used oil. Through issuance of a permit or order, the commissioner may impose requirements in addition to those specified in section 22a-449(c)-119 of the Regulations of Connecticut State Agencies.

(Adopted effective October 31, 2001; Amended June 27, 2002)