

ARTICLE 13. USED OIL MANAGEMENT

Rule 1. General Provisions

329 IAC 13-1-1 Purpose and scope

Authority: IC 13-14-8-1; IC 13-14-8-2

Affected: IC 13-11-2; IC 13-14; IC 13-19-1; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 279

Sec. 1. The purpose of this article is to establish policies, procedures, requirements, and standards to implement IC 13-19-1. This article is being promulgated for the purpose of protecting and enhancing the quality of Indiana's environment and protecting the public health, safety, and well-being of its citizens. This article establishes a used oil management program that is consistent with federal requirements in 40 CFR 279. (*Solid Waste Management Board; 329 IAC 13-1-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1489; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-1-2 Applicability

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 2. (a) This article establishes standards for used oil management practices for the following:

- (1) Generators.
- (2) Collection centers.
- (3) Aggregation points.
- (4) Transporters.
- (5) Transfer facilities.
- (6) Processors.
- (7) Re-refiners.
- (8) Burners.
- (9) Marketers.

(b) References in this article to 40 CFR 260 through 40 CFR 270 shall mean the version adopted by reference at 329 IAC 3.1. (*Solid Waste Management Board; 329 IAC 13-1-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1489; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-1-3 Right of entry

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 3. The department, or its authorized representative, upon presentation of proper credentials, or by directive of the board, shall have a right to enter upon, to, or through public or private premises, subject to this article, to investigate, take samples, copy all records related to the management of used oil, and inspect for compliance with the requirements imposed under IC 13-15, IC 13-19, IC 13-20, IC 13-22, IC 13-23, or this article, or to determine whether a violation or threatened violation exists, in accordance with any or all of the following purposes:

(1) To determine:

(A) whether any person is subject to the requirements of IC 13-15, IC 13-19, IC 13-20, IC 13-22, IC 13-23; or

(B) whether any person subject to the requirements of IC 13-15, IC 13-19, IC 13-20, IC 13-22, or IC 13-23 is in compliance with this article.

(2) To investigate conditions relating to used oil management or used oil management practices where the commissioner has a reasonable belief that a violation of IC 13-15, IC 13-19, IC 13-20, IC 13-22, IC 13-23, or this article is occurring or is about to occur.

(3) To determine whether there has been a violation of any of the provisions of IC 13-15, IC 13-19, IC 13-20, IC 13-22, IC 13-23, this article, or any permit or order issued under IC 13-14, IC 13-15, or this article.

(*Solid Waste Management Board; 329 IAC 13-1-3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1490; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-1-4 Conduct of inspection and sampling

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 4. Each investigation or inspection shall be completed with reasonable promptness. If the commissioner's authorized representative obtains any sample prior to leaving the premises, he or she shall give to the owner, operator, or agent in charge a receipt identifying the sample obtained and, if requested, a portion of the sample in equal volume or weight to the portion retained. If any analysis is made of such sample, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge. (*Solid Waste Management Board; 329 IAC 13-1-4; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1490; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-1-5 Enforcement

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 4-21.5; IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 5. The administration and enforcement of this article shall be in accordance with IC 13-14, IC 13-30, and IC 4-21.5. (*Solid Waste Management Board; 329 IAC 13-1-5; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1490; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-1-6 Penalties

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 6. Penalties for violations of this article are as outlined in IC 13-14 and IC 13-30. (*Solid Waste Management Board; 329 IAC 13-1-6; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1490; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

Rule 2. Definitions

329 IAC 13-2-1 Applicability

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 260.10; 40 CFR 261.1; 40 CFR 280.12

Sec. 1. In addition to the definitions contained in IC 13-11-2 and in this rule, the terms defined in 40 CFR 260.10, 40 CFR 261.1, and 40 CFR 280.12 have the same meanings when used in this article. (*Solid Waste Management Board; 329 IAC 13-2-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1490; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-2 "Aboveground tank" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 2. "Aboveground tank" means a tank used to store or process used oil that is not an underground storage tank as defined in section 18 of this rule. (*Solid Waste Management Board; 329 IAC 13-2-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1490; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-3 "Commissioner" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 3. "Commissioner" means the commissioner of the department. (*Solid Waste Management Board; 329 IAC 13-2-3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1490; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-4 “Container” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 4. “Container” means any portable device in which a material is:

- (1) stored;
- (2) transported;
- (3) treated;
- (4) disposed of; or
- (5) otherwise handled.

(Solid Waste Management Board; 329 IAC 13-2-4; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1491; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-2-5 “Department” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-13-1; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 5. “Department” means the Indiana department of environmental management created under IC 13-13-1. *(Solid Waste Management Board; 329 IAC 13-2-5; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1491; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-2-6 “Do-it-yourselfer used oil collection center” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 6. “Do-it-yourselfer used oil collection center” means any site or facility that accepts, aggregates, or stores used oil collected only from household do-it-yourselfers. *(Solid Waste Management Board; 329 IAC 13-2-6; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1491; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-2-7 “EPA” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 7. “EPA” means the U.S. Environmental Protection Agency. *(Solid Waste Management Board; 329 IAC 13-2-7; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1491; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-2-8 “Existing tank” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 8. “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 the effective date of this article. 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.

(Solid Waste Management Board; 329 IAC 13-2-8; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1491; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-2-9 “Generator” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 9. “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. (*Solid Waste Management Board; 329 IAC 13-2-9; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1491; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-10 “Household do-it-yourselfer used oil” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 10. “Household do-it-yourselfer used oil” means oil that is derived from households, such as used oil generated by individuals through the maintenance of their personal vehicles. (*Solid Waste Management Board; 329 IAC 13-2-10; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1491; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-11 “Household do-it-yourselfer used oil generator” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 11. “Household do-it-yourselfer used oil generator” means an individual who generates household do-it-yourselfer used oil. (*Solid Waste Management Board; 329 IAC 13-2-11; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1491; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-12 “New tank” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 12. “New tank” means a tank that will be used to store or process used oil and for which installation has commenced after the effective date of this article. (*Solid Waste Management Board; 329 IAC 13-2-12; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1491; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-13 “Petroleum refining facility” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 13. “Petroleum refining facility” means an establishment, such as facilities classified as Standard Industrial Classification 2911 that are primarily engaged in producing gasoline, kerosine, distillate fuel oils, residual fuel oils, and lubricants, through:

- (1) fractionation;
- (2) straight distillation of crude oil;
- (3) redistillation of unfinished petroleum derivatives;
- (4) cracking; or
- (5) other processes.

(*Solid Waste Management Board; 329 IAC 13-2-13; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1491; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-14 “Processing” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 14. “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:

- (1) blending used oil with virgin petroleum products;
- (2) blending used oils to meet the fuel specification;
- (3) filtration;
- (4) simple distillation;
- (5) chemical or physical separation; and
- (6) re-refining.

(Solid Waste Management Board; 329 IAC 13-2-14; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1492; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-2-15 “RCRA” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 15. “RCRA” means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976. *(Solid Waste Management Board; 329 IAC 13-2-15; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1492; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-2-16 “Re-refining distillation bottoms” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 16. “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. *(Solid Waste Management Board; 329 IAC 13-2-16; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1492; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-2-17 “Tank” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 17. “Tank” means any stationary device, designed to contain an accumulation of used oil constructed primarily of nonearthen materials, such as wood, concrete, steel, or plastic, that provides structural support. *(Solid Waste Management Board; 329 IAC 13-2-17; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1492; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-2-18 “Underground storage tank” or “UST” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 18. “Underground storage tank” or “UST” means any one (1) or combination of tanks, including underground pipes connected thereto, used to contain an accumulation of regulated substances, and the volume of which, including the volume of underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground. The term does not include any of the following:

- (1) Farm or residential tank of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes.
- (2) Tank used for storing heating oil for consumptive use on the premises where stored.
- (3) Septic tank.
- (4) Pipeline facility, including gathering lines, regulated under any of the following:
 - (A) The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.).
 - (B) The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.).
 - (C) An intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in clause (A) or (B).

- (5) Surface impoundment, pit, pond, or lagoon.
- (6) Storm water or wastewater collection system.
- (7) Flow-through process tank.
- (8) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.
- (9) Storage tank situated in an underground area, such as a basement, cellar, mineworking, drift, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor.

The term does not include any pipes connected to any tank described in subdivisions (1) through (9). (*Solid Waste Management Board; 329 IAC 13-2-18; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1492; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-19 “Used oil” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 19. “Used oil” means:

- (1) any oil that has been refined from crude oil; or
- (2) any synthetic oil;

that has been used and as a result of such use is contaminated by physical or chemical impurities. (*Solid Waste Management Board; 329 IAC 13-2-19; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1492; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-20 “Used oil aggregation point” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 20. “Used oil aggregation point” means any site or facility that accepts, aggregates, 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 fifty-five (55) gallons. Used oil aggregation points may also accept used oil from household do-it-yourselfers. (*Solid Waste Management Board; 329 IAC 13-2-20; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1493; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-21 “Used oil burner” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 21. “Used oil burner” means a facility where used oil not meeting the specification requirements in 329 IAC 13-3-2 is burned for energy recovery in devices identified in 329 IAC 13-8-2(a). (*Solid Waste Management Board; 329 IAC 13-2-21; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1493; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-22 “Used oil collection center” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 22. (a) “Used oil collection center” means any site or facility that:

- (1) is registered, licensed, permitted, or recognized by a state, county, or municipal government to manage used oil; and
- (2) accepts, aggregates, or stores used oil collected from used oil generators regulated under 329 IAC 13-4 who bring used oil to the collection center in shipments of no more than fifty-five (55) gallons under 329 IAC 13-4-5.

(b) Used oil collection centers may also accept used oil from household do-it-yourselfers. (*Solid Waste Management Board; 329 IAC 13-2-22; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1493; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-2-23 “Used oil fuel marketer” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 23. "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.
- (2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in 329 IAC 13-3-2.

(Solid Waste Management Board; 329 IAC 13-2-23; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1493; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-2-24 "Used oil generator" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 24. "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. *(Solid Waste Management Board; 329 IAC 13-2-24; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1493; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-2-25 "Used oil processor or re-refiner" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 25. "Used oil processor or re-refiner" means a facility that processes used oil. *(Solid Waste Management Board; 329 IAC 13-2-25; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1493; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-2-26 "Used oil transfer facility" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 26. "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 twenty-four (24) hours and not longer than thirty-five (35) days during the normal course of transportation or prior to an activity performed under 329 IAC 13-4-1(b)(2). Transfer facilities that store used oil for more than thirty-five (35) days are subject to regulation under 329 IAC 13-7. *(Solid Waste Management Board; 329 IAC 13-2-26; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1493; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-2-27 "Used oil transporter" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 27. (a) "Used oil transporter" means:

(1) any person who:

(A) transports used oil; or

(B) collects used oil from more than one (1) generator and transports the collected oil; or

(2) owners and operators of used oil transfer facilities.

(b) Except as provided in subsection (c), used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but may not process used oil.

(c) Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation, such as 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. *(Solid Waste Management Board; 329 IAC 13-2-27; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1493; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

Rule 3. Applicability

329 IAC 13-3-1 Applicability

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 261; 40 CFR 279.10; 40 CFR 761.20(e)

Sec. 1. (a) The department 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 section 2 of this rule, this article applies to used oil, and to materials identified in this section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in 40 CFR 261, Subpart C, revised as of July 1, 2005.

(b) Mixtures of used oil and hazardous waste must be handled as follows:

(1) For mixtures of used oil with a listed hazardous waste, the following shall apply:

(A) Mixtures of used oil and hazardous waste that is listed in 40 CFR 261, Subpart D, revised as of July 1, 2005, are subject to regulation as hazardous waste under 329 IAC 3.1 rather than as used oil under this article.

(B) Used oil containing more than one thousand (1,000) parts per million total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 CFR 261, Subpart D, revised as of July 1, 2005. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste. For example, this may be done by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 40 CFR 261, Appendix VIII, revised as of July 1, 2005. The rebuttable presumption does not apply to the following:

(i) Metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in 329 IAC 13-4-5(3), to reclaim metalworking oils or fluids. The presumption does not apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner or disposed.

(ii) 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.

(2) Used oil mixed with characteristic hazardous waste identified in 40 CFR 261, Subpart C, revised as of July 1, 2005, is subject to 329 IAC 3.1.

(3) Mixtures of used oil and conditionally exempt small quantity generator hazardous waste regulated under 40 CFR 261.5, revised as of July 1, 2005, are subject to regulation as used oil under this article.

(c) Materials containing or otherwise contaminated with used oil must be handled as follows:

(1) Except as provided in subdivision (2), 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:

(A) are not used oil and thus not subject to this article; and

(B) if applicable, are subject to the hazardous waste regulations under 329 IAC 3.1.

(2) Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this article.

(3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this article.

(d) Mixtures of used oil with products must be handled as follows:

(1) Except as provided in subdivision (2), mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this article.

(2) 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 article once the used oil and diesel fuel have been mixed. Before mixing, the used oil is subject to the requirements of 329 IAC 13-4.

(e) Materials derived from used oil must be handled as follows:

(1) 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, such as re-refined lubricants, are:

(A) not used oil and thus are not subject to this article; and

(B) not solid wastes and are thus not subject to the hazardous waste regulations under 329 IAC 3.1 as provided in 40 CFR 261.3(c)(2)(A), revised as of July 1, 2005.

- (2) Materials produced from used oil that are burned for energy recovery, such as used oil fuels, are subject to regulation as used oil under this article.
- (3) Except as provided in subdivision (4), materials derived from used oil that are disposed of or used in a manner constituting disposal are:
 - (A) not used oil and thus are not subject to this article; and
 - (B) solid wastes and thus are subject to the hazardous waste regulations under 329 IAC 3.1 if the materials are listed or identified as hazardous waste.
- (4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this article.
- (f) Wastewater, the discharge of which is subject to regulation under either Section 402 or 307(b) of the Clean Water Act, 33 U.S.C. 1342 or 33 U.S.C. 1317(b), respectively, including wastewaters at facilities that have eliminated the discharge of wastewater, contaminated with de minimis quantities of used oil are not subject to the requirements of this article. As used in this subsection, “de minimis quantities of used oils” means 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.
- (g) Used oil introduced into crude oil pipelines or a petroleum refining facility must be handled as follows:
 - (1) Used oil mixed with crude oil or natural gas liquids, such as in a production separator or crude oil stock tank, for insertion into a crude oil pipeline is exempt from the requirements of this article. The used oil is subject to the requirements of this article before the mixing of used oil with crude oil or natural gas liquids.
 - (2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent (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 before crude distillation or catalytic cracking are exempt from the requirements of this article.
 - (3) 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 article provided that the used oil constitutes less than one percent (1%) of the crude oil feed to any petroleum refining facility process unit at any given time. Before insertion into the petroleum refining facility process, the used oil is subject to the requirements of this article.
 - (4) Except as provided in subdivision (5), used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this article only if the used oil meets the specification of section 2 of this rule. Before insertion into the petroleum refining facility process, the used oil is subject to the requirements of this article.
 - (5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as an article of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this article. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system, such as by pouring collected used oil into the wastewater treatment system.
 - (6) 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 article.
 - (h) Used oil produced on vessels from normal shipboard operations is not subject to this article until it is transported ashore.
 - (i) Used oil containing less than fifty (50) parts per million PCB is subject to the requirements of this article unless, because of dilution, it is regulated under 329 IAC 4.1 as a used oil containing PCB at fifty (50) parts per million or greater. Used oil containing PCB subject to the requirements of this article may also be subject to the prohibitions and requirements found in 329 IAC 4.1.
 - (j) Used oil containing PCB at concentrations of fifty (50) parts per million or greater is not subject to the requirements of this article, but is subject to regulation under 329 IAC 4.1. No person may avoid these provisions by diluting used oil containing PCB, unless otherwise specifically provided for in this article or in 329 IAC 4.1.
 - (k) The use of waste oil that contains equal to or greater than two (2) parts per million PCB as a sealant, coating, or dust control agent is prohibited. Prohibited uses include, but are not limited to, the following:
 - (1) Road oiling.
 - (2) General dust control.
 - (3) Use as a pesticide or herbicide carrier.
 - (4) Use as a rust preventative on pipes.

(l) In addition to any applicable requirements under 329 IAC 13-8 and 329 IAC 13-9, marketers and burners of used oil who market, process, or distribute in commerce for energy recovery, used oil containing equal to or greater than two (2) parts per million PCB must comply with section 4 of this rule.

(m) 40 CFR 261 and 40 CFR 761 are available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, (202) 783-3238. (*Solid Waste Management Board; 329 IAC 13-3-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1494; readopted filed Sep 7, 2001, 1:35 p.m.: 25 IR 238; filed Jul 14, 2004, 9:15 a.m.: 27 IR 3978; filed Apr 13, 2005, 11:30 a.m.: 28 IR 2666; filed Jun 9, 2006, 3:40 p.m.: 20060712-IR-329050066FRA*)

329 IAC 13-3-2 Used oil specifications

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 2. 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 article 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 329 IAC 13-9-3, 329 IAC 13-9-4, and 329 IAC 13-9-5(b), the used oil is no longer subject to this article.

Table 1-Used Oil not Exceeding any Specification Level is
not Subject to this Article when Burned for Energy
Recovery¹

Constituent or 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 ²

¹The specification does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (See section 1(b) of this rule.).

²Used oil containing more than one thousand (1,000) parts per million total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under section 1(b) of this rule. Such used oil is subject to 40 CFR 266 Subpart H rather than this article when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

Note: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).

(*Solid Waste Management Board; 329 IAC 13-3-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1495; readopted filed Sep 7, 2001, 1:35 p.m.: 25 IR 239*)

329 IAC 13-3-3 Prohibitions

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 260.10; 40 CFR 264; 40 CFR 265

Sec. 3. (a) Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under 40 CFR 264 or 40 CFR 265.

(b) The use of used oil as a dust suppressant is prohibited.

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

- (1) Industrial furnaces identified in 40 CFR 260.10.
- (2) Boilers, as defined in 40 CFR 260.10, that are identified as any of the following:
 - (A) 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.
 - (B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.
 - (C) Used oil-fired space heaters provided that the burner meets the provisions of 329 IAC 13-4-4.
- (3) Hazardous waste incinerators subject to regulation under 40 CFR 264 Subpart O or 40 CFR 265.

(Solid Waste Management Board; 329 IAC 13-3-3; filed Feb 3, 1997, 9:15 a.m.; 20 IR 1496; readopted filed Sep 7, 2001, 1:35 p.m.; 25 IR 239)

329 IAC 13-3-4 Marketing used oil containing any quantifiable level of PCB

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 261; 40 CFR 761.20(e)

Sec. 4. (a) In addition to any applicable requirements in 329 IAC 13-8 through 329 IAC 13-9, marketers and burners of used oil who market, process, or distribute in commerce for energy recovery, used oil containing greater than or equal to two (2) parts per million PCB are subject to the requirements of this section.

(b) Used oil containing greater than or equal to two (2) parts per million PCB may be marketed only to:

(1) Qualified incinerators as defined in 40 CFR 761.3, incorporated by reference in 329 IAC 4.1-2-1.

(2) Marketers who market off-specification used oil for energy recovery only to other marketers who have complied with 329 IAC 13-9-4.

(3) Burners identified in 329 IAC 13-8-2(a)(1) through 329 IAC 13-8-2(a)(2). Only burners in the automotive industry may burn used oil generated from automotive sources in used oil-fired space heaters provided the provisions of 329 IAC 13-4-4 are met. The commissioner may grant a variance for a boiler that does not meet the criteria in 329 IAC 13-8-2(a)(1) through 329 IAC 13-8-2(a)(2) after considering the criteria listed in 40 CFR 260.32(a) through 40 CFR 260.32(f), incorporated by reference in 329 IAC 3.1-5-4. The applicant must address the relevant criteria contained in 40 CFR 260.32(a) through 40 CFR 260.32(f) in an application to the commissioner.

(c) Used oil to be burned for energy recovery is presumed to contain greater than or equal to two (2) parts per million PCB unless the marketer obtains test analyses or other information that the used oil fuel does not contain greater than or equal to two (2) parts per million PCB.

(1) The person who first claims that a used oil fuel does not contain greater than or equal to two (2) parts per million PCB must obtain analyses or other information to support that claim.

(2) Testing to determine the PCB concentration in used oil may be conducted on individual samples, or in accordance with the testing procedures described in § 761.60(g)(2), incorporated by reference in 329 IAC 4.1-4-1. However, for purposes of this part, if any PCBs at a concentration of fifty (50) parts per million or greater have been added to the container or equipment, then the total container contents must be considered as having a PCB concentration of fifty (50) parts per million or greater for purposes of complying with the disposal requirements of this part.

(3) Other information documenting that the used oil fuel does not contain greater than or equal to two (2) parts per million PCB may consist of either personal, special knowledge of the source and composition of the used oil, or a certification from the person generating the used oil claiming that the oil does not contain greater than or equal to two (2) parts per million PCB.

(d) Persons subject to this section shall comply with the following restrictions on burning:

(1) Used oil containing greater than or equal to two (2) parts per million PCB may be burned for energy recovery only in the combustion facilities identified in subsection (b) when such facilities are operating at normal operating temperatures. Used oil containing greater than or equal to two (2) parts per million PCB must not be burned during either startup or shutdown operations. Owners and operators of such facilities are burners of used oil fuels.

(2) Before a burner accepts from a marketer the first shipment of used oil fuel containing greater than or equal to two (2) parts per million PCB, the burner must provide the marketer a one-time written and signed notice certifying that:

(A) The burner has complied with any notification requirements applicable to qualified incinerators as defined in 40 CFR 761.3, incorporated in 329 IAC 4.1-2-1, or to burners regulated under 329 IAC 13-8.

(B) The burner will burn the used oil only in a combustion facility identified in subsection (b) and identify the class of burner he qualifies.

(e) The following record keeping requirements are in addition to the record keeping requirements for marketers found in 329 IAC 13-9-3(b), 329 IAC 13-9-5, and 329 IAC 13-9-6, and for burners found in 329 IAC 13-8-6 and 329 IAC 13-8-7:

- (1) Marketers who first claim that the used oil fuel contains greater than or equal to two (2) parts per million PCB must:
 - (A) include among the records required by 329 IAC 13-9-3(b) and 329 IAC 13-9-5(b) through 329 IAC 13-9-5(c), copies of the analysis or other information documenting his claim; and
 - (B) include among the records required by 329 IAC 13-9-5(a), 329 IAC 13-9-5(c), and 329 IAC 13-9-6, a copy of each certification notice received or prepared relating to transactions involving used oil containing PCB.
- (2) Burners must include among the records required by 329 IAC 13-8-6 and 329 IAC 13-8-7 a copy of each certification notice required by subsection (d)(2) that the burner sends to a marketer.

(Solid Waste Management Board; 329 IAC 13-3-4; filed Apr 13, 2005, 11:30 a.m.: 28 IR 2668)

Rule 4. Used Oil Generators

329 IAC 13-4-1 Applicability

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 1. (a) Except as provided in this section, this rule 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. This rule does not apply to the following:

- (1) Household do-it-yourselfer used oil generators are not subject to regulation under this article.
- (2) Vessels at sea or at port are not subject to this rule. For purposes of this rule, 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 or persons 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 rule once the used oil is transported ashore. The co-generators may decide among them which party will fulfill the requirements of this rule.
- (3) 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 article once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this rule.
- (4) Farmers who generate an average of twenty-five (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 article.

(b) Used oil generators who conduct the following activities are subject to the requirements of other applicable provisions of this article:

- (1) Generators who transport used oil, except under the self-transport provisions of section 5(1) and 5(2) of this rule, must also comply with 329 IAC 13-6.
- (2) Except as provided in subdivision (3), generators who process or re-refine used oil must also comply with 329 IAC 13-7.
- (3) Generators who perform any of 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-specification 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 under Section 402 or 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 under 329 IAC 13-3-1(c).
 - (E) Filtering, separating, or otherwise reconditioning used oil before burning it in a space heater under section 4 of this rule.
- (4) Generators who burn off-specification used oil for energy recovery, except under the on-site space heater provisions of section 4 of this rule, must also comply with 329 IAC 13-8.
- (5) 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 329 IAC 13-3-2 must also comply with 329 IAC 13-9.

(6) Generators who dispose of used oil must also comply with 329 IAC 13-10.

(Solid Waste Management Board; 329 IAC 13-4-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1496; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-4-2 Hazardous waste mixing

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 2. (a) Mixtures of used oil and hazardous waste must be managed in accordance with 329 IAC 13-3-1(b).

(b) The rebuttable presumption for used oil of 329 IAC 13-3-1(b)(1)(B) applies to used oil managed by generators. Under the rebuttable presumption for used oil of 329 IAC 13-3-1(b)(1)(B), used oil containing greater than one thousand (1,000) parts per million 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 or fluids and certain used oils removed from refrigeration units. *(Solid Waste Management Board; 329 IAC 13-4-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1497; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-4-3 Used oil storage

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 112; 40 CFR 264; 40 CFR 265; 40 CFR 280

Sec. 3. (a) In addition to the requirements of this rule, used oil generators are also subject to the following:

(1) All applicable spill prevention, control, and countermeasures found at 40 CFR 112.

(2) The underground storage tank standards found at 40 CFR 280 for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste.

(3) All applicable regulations of the Indiana fire prevention and building safety commission.

(b) Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under 40 CFR 264 or 40 CFR 265.

(c) Containers and aboveground tanks used to store used oil at generator facilities must:

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

(2) not be leaking (no visible leaks).

(d) Requirements for labels shall be as follows:

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

(2) 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".

(e) Upon detection of a release of used oil to the environment not subject to the requirements of 40 CFR 280 Subpart F, which has occurred after the effective date of this rule, a generator must perform the following clean-up steps:

(1) Stop the release.

(2) Contain the released used oil.

(3) Clean up and manage properly the released used oil and other materials.

(4) Communicate a spill report in accordance with 327 IAC 2-6.1.

(5) If necessary to prevent future releases, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Solid Waste Management Board; 329 IAC 13-4-3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1497; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-4-4 On-site burning in space heaters

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 4. 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 five-tenths (0.5) million British thermal units per hour; and
- (3) the combustion gases from the heater are vented to the ambient air.

(Solid Waste Management Board; 329 IAC 13-4-4; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1497; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-4-5 Off-site shipments

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 5. Except as provided as follows, generators must ensure that their used oil is transported only by transporters who have obtained EPA identification numbers:

- (1) Generators may transport, without an EPA 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:

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

- (2) Generators may transport, without an EPA identification number, used oil that is generated at the generator's site to an aggregation point provided that:

- (A) the generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
- (B) the generator transports no more than fifty-five (55) gallons of used oil at any time; and
- (C) the generator transports the used oil to an aggregation point that is owned or operated by the same generator.

- (3) Used oil generators may arrange for used oil to be transported by a transporter without an EPA identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor or re-refiner to the generator for use as a lubricant, cutting oil, or coolant. The contract, known as a tolling arrangement, must indicate:

- (A) The type of used oil and the frequency of shipments.
- (B) That the vehicle used to transport the used oil to the processing or re-refining facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor or re-refiner.
- (C) That reclaimed oil will be returned to the generator.

(Solid Waste Management Board; 329 IAC 13-4-5; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1498; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

Rule 5. Used Oil Collection Centers and Aggregation Points

329 IAC 13-5-1 Do-it-yourselfer used oil collection centers

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 1. (a) This section 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, or stores used oil collected only from household do-it-yourselfers.

(b) Owners or operators of all DIY used oil collection centers must comply with the generator standards in 329 IAC 13-4.

(Solid Waste Management Board; 329 IAC 13-5-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1498; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

24 IR 1535)

329 IAC 13-5-2 Used oil collection centers

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 2. (a) This section applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that accepts, aggregates, or stores used oil collected from used oil generators regulated under 329 IAC 13-4 who bring used oil to the collection center in shipments of no more than fifty-five (55) gallons under the provisions of 329 IAC 13-4-5(a). Used oil collection centers may also accept used oil from household do-it-yourselfers.

(b) Owners or operators of all used oil collection centers must:

(1) comply with the generator standards in 329 IAC 13-4; and

(2) be registered, licensed, permitted, or recognized by a state, county, or municipal government to manage used oil.

(Solid Waste Management Board; 329 IAC 13-5-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1498; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-5-3 Used oil aggregation points owned by the generator

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 3. (a) This section applies to owners or operators of all used oil aggregation points. A used oil aggregation point is any site or facility that accepts, aggregates, 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 fifty-five (55) gallons under the provisions of 329 IAC 13-4-5(2). Used oil aggregation points may also accept used oil from household do-it-yourselfers.

(b) Owners or operators of all used oil aggregation points must comply with the generator standards in 329 IAC 13-4. *(Solid Waste Management Board; 329 IAC 13-5-3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1498; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

Rule 6. Used Oil Transporter and Transfer Facilities

329 IAC 13-6-1 Applicability

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 261.7

Sec. 1. (a) Except as provided in this section, this rule applies to all used oil transporters. Used oil transporters are persons who transport used oil, persons who collect used oil from more than one (1) generator and transport the collected oil, and owners and operators of used oil transfer facilities. This rule does not apply to the following:

(1) On-site transportation.

(2) Generators who transport shipments of used oil totaling fifty-five (55) gallons or less from the generator to a used oil collection center as specified in 329 IAC 13-4-5(1).

(3) Generators who transport shipments of used oil totaling fifty-five (55) gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in 329 IAC 13-4-5(2).

(4) Transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor or re-refiner, or burner subject to the requirements of this article.

Except as provided in this subsection, this rule applies 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) Transporters who import used oil from abroad or export used oil outside of the United States are subject to the requirements of this rule from the time the used oil enters and until the time it exits Indiana.

(c) Unless trucks previously used to transport hazardous waste are emptied as described in 40 CFR 261.7 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 329 IAC 13-3-1(b), the hazardous waste and used oil mixture is determined not to be hazardous waste.

(d) Used oil transporters who conduct the following activities are also subject to other applicable provisions of this article:

(1) Transporters who generate used oil must also comply with 329 IAC 13-4.

(2) Transporters who process or re-refine used oil, except as provided in 329 IAC 13-6-2 [section 2 of this rule], must also comply with 329 IAC 13-7.

(3) Transporters who burn off-specification used oil for energy recovery must also comply with 329 IAC 13-8.

(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 329 IAC 13-3-2, must also comply with 329 IAC 13-9.

(5) Transporters who dispose of used oil must also comply with 329 IAC 13-10.

(Solid Waste Management Board; 329 IAC 13-6-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1499; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-6-2 Restrictions on transporters who are not also processors or re-refiners

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 2. (a) Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in subsection (b), used oil transporters may not process used oil unless they also comply with the requirements for processors and re-refiners in 329 IAC 13-7.

(b) Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation, such as 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 or re-refiner requirements in 329 IAC 13-7.

(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 or re-refiner requirements in 329 IAC 13-7. (Solid Waste Management Board; 329 IAC 13-6-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1499; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-6-3 Notification

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 3. (a) Used oil transporters who have not previously complied with the notification requirements of RCRA Section 3010 must comply with this article and obtain an EPA identification number.

(b) A used oil transporter requiring an EPA identification number who has not received an EPA identification number shall obtain one by notifying the commissioner of their used oil activity by submitting a completed EPA Form 8700-12, Notification of Regulated Waste Activity Report. To request EPA Form 8700-12, call the department at (317) 232-7956. Completed forms shall be mailed to the Indiana Department of Environmental Management, Office of Land Quality, P.O. Box 7035, Indianapolis, Indiana 46207-7035. (Solid Waste Management Board; 329 IAC 13-6-3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1500; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-6-4 Used oil transportation

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 33 CFR 153.203; 49 CFR 171 through 49 CFR 180

Sec. 4. (a) 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 or re-refining facility that has obtained an EPA identification number;

(3) an off-specification used oil burner facility that has obtained an EPA identification number; or

(4) an on-specification used oil burner facility.

(b) Used oil transporters must comply with all applicable requirements under the U.S. Department of Transportation regulations in 49 CFR 171 through 49 CFR 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 171 through 49 CFR 180.

(c) Used oil discharges must be handled as follows:

(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, including:

(A) notifying local authorities; and

(B) diking the discharge area.

(2) If a discharge of used oil occurs during transportation and a government official 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 do the following:

(A) Give notice, if required by 49 CFR 171.15, to the National Response Center, (800) 424-8802 or (202) 426-2675.

(B) 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, D.C. 20590.

(C) Communicate a spill report in accordance with 327 IAC 2-6.1.

(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.

(Solid Waste Management Board; 329 IAC 13-6-4; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1500; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-6-5 Rebuttable presumption for used oil

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 261; 40 CFR 279.44

Sec. 5. (a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of 329 IAC 13-3-1(b)(1)(B), 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 one thousand (1,000) parts per million.

(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 one thousand (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, revised as of July 1, 2005. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste. For example, this may be done by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 40 CFR 261, Appendix VIII, revised as of July 1, 2005. The rebuttable presumption does not apply to the following:

(1) Metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in 329 IAC 13-4-5(3), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner or disposed.

(2) 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.

(d) Records of analyses conducted or information used to comply with this section must be maintained by the transporter for at least three (3) years. *(Solid Waste Management Board; 329 IAC 13-6-5; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1500; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jun 9, 2006, 3:40 p.m.: 20060712-IR-329050066FRA)*

329 IAC 13-6-6 Used oil storage at transfer facilities

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 112; 40 CFR 264; 40 CFR 265; 40 CFR 280

Sec. 6. (a) In addition to the requirements of this rule, used oil transporters are also subject to the following:

- (1) All applicable spill prevention, control, and countermeasures found at 40 CFR 112.
- (2) The underground storage tank standards found at 40 CFR 280 for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste.
- (3) All applicable regulations of the Indiana fire prevention and building safety commission.

(b) This section 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 twenty-four (24) hours during the normal course of transportation and not longer than thirty-five (35) days. Transfer facilities that store used oil for more than thirty-five (35) days are subject to regulation under 329 IAC 13-7.

(c) 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 40 CFR 264 or 40 CFR 265.

(d) Containers and aboveground tanks used to store used oil at transfer facilities must:

- (1) be in good condition with no severe rusting, apparent structural defects, or deterioration; and
- (2) not be leaking (no visible leaks).

(e) Containers used to store used oil at transfer facilities must be equipped with a secondary containment system and meet the following requirements:

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

- (A) dikes, berms, or retaining walls, and a floor that must cover the entire area within the dikes, berms, or retaining walls; or
- (B) an equivalent secondary containment system.

(2) 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, ground water, or surface water.

(3) The secondary containment system must be able to contain either at least ten percent (10%) of the total volume of the containers used to store used oil or the volume of the largest container used to store used oil at the transfer facility, whichever is greater.

(f) Existing aboveground tanks used to store used oil at transfer facilities must be equipped with a secondary containment system and meet the following requirements:

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

- (A) dikes, berms, or retaining walls, and a floor that must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
- (B) an equivalent secondary containment system.

(2) 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, ground water, or surface water.

(3) The secondary containment system must be designed or operated to contain one hundred percent (100%) of the capacity of the largest tank within the secondary containment boundary.

(g) New aboveground tanks used to store used oil at transfer facilities must be equipped with a secondary containment system and meet the following requirements:

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

- (A) dikes, berms, or retaining walls, and a floor that must cover the entire area within the dike, berm, or retaining wall; or
- (B) an equivalent secondary containment system.

(2) 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, ground water, or surface water.

(3) The secondary containment system must be designed or operated to contain one hundred percent (100%) of the capacity of the largest tank within the secondary containment boundary.

(h) Requirements for labels shall be as follows:

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

(2) 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".

(i) Upon detection of a release of used oil to the environment not subject to the requirements of 40 CFR 280 Subpart F, which has occurred after the effective date of this article, the owner or operator of a transfer facility must perform the following clean-up steps:

(1) Stop the release.

(2) Contain the released used oil.

(3) Clean up and manage properly the released used oil and other materials.

(4) Communicate a spill report in accordance with 327 IAC 2-6.1.

(5) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Solid Waste Management Board; 329 IAC 13-6-6; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1501; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1619; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470)

329 IAC 13-6-7 Tracking

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 7. (a) Used oil transporters must keep a record of each used oil shipment accepted for transport. Records for each shipment must include the following:

(1) The name and address of the generator, transporter, or processor or re-refiner who provided the used oil for transport.

(2) The EPA identification number, if applicable, of the generator, transporter, or processor or re-refiner who provided the used oil for transport.

(3) The quantity of used oil accepted.

(4) The date of acceptance.

(5) Except for intermediate rail transporters, the signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor or re-refiner who provided the used oil for transport.

(b) 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 the following:

(1) The name and address of the receiving facility or transporter.

(2) The EPA identification number of the receiving facility or transporter.

(3) The quantity of used oil delivered.

(4) The date of delivery.

(5) Except for intermediate rail transporters, the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.

(c) Used oil transporters must maintain the records described in subsection (b)(1) through (b)(4) for each shipment of used oil exported to any foreign country.

(d) The records described in this section must be maintained for at least three (3) years. *(Solid Waste Management Board; 329 IAC 13-6-7; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1502; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-6-8 Management of residues

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 8. Transporters who generate residues from the storage or transport of used oil must manage the residues as specified in 329 IAC 13-3-1(e). *(Solid Waste Management Board; 329 IAC 13-6-8; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1502; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

Rule 7. Used Oil Processors and Re-Refiners

329 IAC 13-7-1 Applicability

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 1. (a) This rule applies to owners and operators of facilities involved in the processing of used oil as defined in 329 IAC 13-2-14. This rule does not apply to either of the following:

(1) Transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in 329 IAC 13-6-2.

(2) Burners that conduct incidental processing operations that occur during the normal course of used oil management prior to burning as provided in 329 IAC 13-8-2(b).

(b) Used oil processors or re-refiners who conduct the following activities are also subject to the requirements of other applicable provisions of this article:

(1) Processors or re-refiners who generate used oil must also comply with 329 IAC 13-4.

(2) Processors or re-refiners who transport used oil must also comply with 329 IAC 13-6.

(3) Except as provided in this subdivision, processors or re-refiners who burn off-specification used oil for energy recovery must also comply with 329 IAC 13-8. Processors or re-refiners burning used oil for energy recovery under either of the following conditions are not subject to 329 IAC 13-8:

(A) The used oil is burned in an on-site space heater that meets the requirements of 329 IAC 13-4-4.

(B) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing.

(4) Processors or 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 329 IAC 13-3-2 must also comply with 329 IAC 13-9.

(5) Processors or re-refiners who dispose of used oil must comply with 329 IAC 13-10.

(Solid Waste Management Board; 329 IAC 13-7-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1502; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-7-2 Notification

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 2. (a) Used oil processors and re-refiners who have not previously complied with the notification requirements of RCRA Section 3010 must comply with this article and obtain an EPA identification number.

(b) A used oil processor or re-refiner requiring an EPA identification number who has not received an EPA identification number shall obtain one by notifying the commissioner of their used oil activity by submitting a completed EPA Form 8700-12, Notification of Regulated Waste Activity Report. To request EPA Form 8700-12, call the department at (317) 232-7956. Completed forms shall be mailed to the Indiana Department of Environmental Management, Office of Land Quality, P.O. Box 7035, Indianapolis, Indiana 46207-7035. *(Solid Waste Management Board; 329 IAC 13-7-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1503; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-7-3 General facility standards

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 112; 40 CFR 1510

Sec. 3. (a) Owners and operators of used oil processors and re-refiners facilities must comply with the following requirements:

(1) Facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned, sudden, or nonsudden release of used oil to air, soil, or surface water that could threaten human health or the environment.

(2) 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 as specified:

(A) An internal communications or alarm system capable of providing immediate emergency instruction by voice or signal to facility personnel.

- (B) A device, such as a telephone that is 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.
- (C) 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.
- (D) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.
- (3) 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.
- (4) There must be access to a communications or alarm system:
 - (A) whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have 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 subdivision (2); and
 - (B) if there is ever just one (1) 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 subdivision (2).
- (5) 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.
- (6) Arrangements with local authorities shall be made as follows:
 - (A) 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:
 - (AA) the layout of the facility;
 - (BB) properties of used oil handled at the facility and associated hazards;
 - (CC) places where facility personnel would normally be working;
 - (DD) entrances to roads inside the facility; and
 - (EE) possible evacuation routes.
 - (ii) Where more than one (1) police department and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police department 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.
 - (iv) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.
 - (B) Where state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.
- (b) Owners and operators of used oil processors and re-refiners facilities must comply with the following requirements:
 - (1) Each owner or operator must have a contingency plan for the facility. The contingency plan must be:
 - (A) designed to minimize hazards to human health and the environment from fires, explosions, or any unplanned sudden or nonsudden release of used oil to air, soil, or surface water; and
 - (B) carried out immediately whenever there is a fire, explosion, or release of used oil that could threaten human health or the environment.
 - (2) The contingency plan must contain the following:
 - (A) A description of the actions facility personnel must take to comply with this subsection in response to fires, explosions, or any unplanned sudden or nonsudden release of used oil to air, soil, or surface water at the facility.
 - (B) A description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services under subsection (a)(6).
 - (C) An up-to-date list of names, addresses, and office and home phone numbers of all persons qualified to act as emergency coordinator as described in subdivision (6). Where more than one (1) person is listed, one (1) must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as

alternates.

(D) An up-to-date list of all emergency equipment at the facility, such as fire extinguishing systems, spill control equipment, communications and internal and external alarm systems, and decontamination equipment, where this equipment is required. 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.

(E) An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe the signal or signals 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.

(3) If the owner or operator has already prepared a spill prevention, control, and countermeasures (SPCC) plan in accordance with 40 CFR 112, 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 article.

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

(A) maintained at the facility; and

(B) 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.

(5) The contingency plan must be reviewed, immediately amended, and redistributed to the entities identified in subdivision (4)(B), if necessary, whenever:

(A) applicable regulations are revised;

(B) the plan fails in an emergency;

(C) the facility changes in its design, construction, operation, maintenance, or other circumstances:

(i) in a way that materially increases the potential for fires, explosions, or releases of used oil; or

(ii) changes the response necessary in an emergency;

(D) the list of emergency coordinators changes; or

(E) the list of emergency equipment changes.

(6) At all times, there must be at least one (1) employee either on the facility premises or on call, who is 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:

(A) all aspects of the facility's contingency plan;

(B) all operations and activities at the facility;

(C) the location and characteristics of used oil handled;

(D) the location of all records within the facility; and

(E) the facility layout.

In addition, this person must have the authority to commit the resources needed to carry out the contingency plan. The emergency coordinator's responsibilities include those listed in subdivision (7). 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.

(7) Emergency procedures must be handled as follows:

(A) 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.

(B) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and a real extent of any released materials. This may be accomplished by observation or review of facility records of manifests and, if necessary, by chemical analysts.

(C) 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, such as:

(i) the effects of any toxic, irritating, or asphyxiating gases that are generated; or

(ii) the effects of any hazardous surface water run-offs from water of chemical agents used to control fire and heat-induced explosions.

(D) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health or the environment outside the facility, the emergency coordinator must report any findings as follows:

(i) If the assessment indicated that evacuation of local areas may be advisable, immediate notification must be made to the Office of Land Quality, Indiana Department of Environmental Management, 100 North Senate Avenue, Indianapolis, Indiana 46206-6015, (317) 241-4336. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated.

(ii) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for the geographical area in the applicable regional contingency plan under 40 CFR 112 or the National Response Center using their twenty-four (24) hour toll free number, (800) 424-8802. The report must include the following:

(AA) Name and telephone number of reporter.

(BB) Name and address of facility.

(CC) Time and type of incident, such as release, fire, or explosion.

(DD) Name and quantity of material or materials involved, to the extent known.

(EE) The extent of injuries, if any.

(FF) The possible hazards to human health or the environment outside the facility.

(E) 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, the following:

(i) Stopping processes and operation.

(ii) Collecting and containing released used oil.

(iii) Removing or isolating containers.

(F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure build up, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(G) 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.

(H) The emergency coordinator must ensure that, in the affected area or areas 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 clean-up procedures are completed;

(ii) all emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed; and

(iii) the owner or operator must notify the commissioner, and appropriate state and local authorities, that the facility is in compliance with items (i) and (ii) before operations are resumed in the affected area or areas of the facility.

(I) 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 fifteen (15) days after the incident, the owner or operator must submit a written report on the incident to the commissioner. The report must include the following:

(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, such as fire or explosion.

(iv) Name and quantity of material or materials involved.

(v) The extent of injuries, if any.

(vi) An assessment of actual or potential hazards to human health and the environment, where applicable.

(vii) Estimated quantity and disposition of recovered material that resulted from the incident.

(Solid Waste Management Board; 329 IAC 13-7-3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1503; errata filed Feb 3, 1997, 9:15 a.m.: 20 IR 1593; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-7-4 Rebuttable presumption for used oil

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 261; 40 CFR 279.53

Sec. 4. (a) To ensure that used oil managed at a processing or re-refining facility is not hazardous waste under the rebuttable presumption of 329 IAC 13-3-1(b)(1)(B), the owner or operator of a used oil processing or re-refining facility must determine whether the total halogen content of used oil managed at the facility is above or below one thousand (1,000) parts per million.

(b) The owner or operator 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 one thousand (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, revised as of July 1, 2005. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste. For example, this may be done by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 40 CFR 261, Appendix VIII, revised as of July 1, 2005. The rebuttable presumption does not apply to the following:

(1) Metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling agreement to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner or disposed.

(2) 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.

(Solid Waste Management Board; 329 IAC 13-7-4; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1506; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jun 9, 2006, 3:40 p.m.: 20060712-IR-329050066FRA)

329 IAC 13-7-5 Used oil management

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 112; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 280

Sec. 5. (a) In addition to the requirements of this rule, used oil processors or re-refiners are also subject to the following:

(1) All applicable spill prevention, control, and countermeasures found at 40 CFR 112.

(2) The underground storage tank standards found at 40 CFR 280 for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste.

(3) All applicable regulations of the Indiana fire prevention and building safety commission.

(b) Used oil processors or re-refiners may not store used oil in units other than tanks, containers, or units subject to regulation under 40 CFR 264 or 40 CFR 265.

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

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

(2) not be leaking (no visible leaks).

(d) Containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system and meet the following requirements:

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

(A) dikes, berms, or retaining walls, and a floor that must cover the entire area within the dike, berm, or retaining wall; or

(B) 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, ground water, or surface water.

(3) The secondary containment system must be able to contain either at least ten percent (10%) of the total volume of the containers used to store used oil or the volume of the largest container used to store used oil at processing or re-refining facilities, whichever is greater.

(e) Existing aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system and meet the following requirements:

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

(A) dikes, berms, or retaining walls, and a floor that must cover the entire area within the dike, berm, or retaining wall

except areas where existing portions of the tank meet the ground; or

(B) 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, ground water, or surface water.

(3) The secondary containment system must be designed or operated to contain one hundred percent (100%) of the capacity of the largest tank within the secondary containment boundary.

(f) New aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system and meet the following requirements:

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

(A) dikes, berms, or retaining walls, and the floor must cover the entire area within the dike, berm, or retaining wall; or

(B) 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, ground water, or surface water.

(3) The secondary containment system must be designed or operated to contain one hundred percent (100%) of the capacity of the largest tank within the secondary containment boundary.

(g) Requirements for labels shall be as follows:

(1) 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".

(2) Fill pipes used to transfer used oil into underground storage tanks at processing and re-refining facilities must be labeled or marked clearly with the words "Used Oil".

(h) Upon detection of a release of used oil to the environment not subject to the requirements of 40 CFR 280, Subpart F, which has occurred after the effective date of this article, an owner or operator must perform the following clean-up steps:

(1) Stop the release.

(2) Contain the released used oil.

(3) Clean up and manage properly the released used oil and other materials.

(4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(i) Requirements for closure shall be as follows:

(1) Owners and operators who store or process used oil in aboveground tanks must comply with the following requirements:

(A) At closure of a tank system, the owner or operator must remove or decontaminate:

(i) used oil residues in tanks;

(ii) contaminated containment system components;

(iii) contaminated soils; and

(iv) structures and equipment contaminated with used oil;

and manage them as hazardous waste unless the materials are not hazardous waste under 40 CFR 261.

(B) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in clause (A), 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 of 40 CFR 265.310 that apply to hazardous waste landfills.

(2) Owners and operators who store used oil in containers must comply with the following requirements:

(A) At closure, containers holding used oils or residues of used oil must be removed from the site.

(B) The owner or operator must remove or decontaminate:

(i) used oil residues;

(ii) contaminated containment system components;

(iii) contaminated soils; and

(iv) structures and equipment contaminated with used oil;

and manage them as hazardous waste unless the materials are not hazardous waste under 40 CFR 261.

(Solid Waste Management Board; 329 IAC 13-7-5; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1506; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1620; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470)

329 IAC 13-7-6 Analysis plan

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 260.20; 40 CFR 260.21; 40 CFR 261

Sec. 6. (a) 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 section 4 of this rule and, if applicable, 329 IAC 13-9-3. The owner or operator must keep the plan at the facility.

(b) At a minimum, the plan must specify the following:

(1) Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination.

(2) If sample analyses are used to make this determination, the following requirements shall apply:

(A) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(i) one (1) of the sampling methods in 40 CFR 261 Appendix I; or

(ii) a method shown to be equivalent under 40 CFR 260.20 and 40 CFR 260.21.

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

(C) The methods used to analyze used oil for the parameters specified in section 4 of this rule.

(3) The type of information that will be used to determine the halogen content of the used oil.

(c) At a minimum, the plan must specify the following if 329 IAC 13-9-3 is applicable:

(1) Whether sample analyses or other information will be used to make this determination.

(2) If sample analyses are used to make this determination, the following requirements shall apply:

(A) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(i) one (1) of the sampling methods in 40 CFR 261 Appendix I; or

(ii) a method shown to be equivalent under 40 CFR 260.20 and 40 CFR 260.21.

(B) Whether used oil will be sampled and analyzed prior to or after any processing or re-refining.

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

(D) The methods used to analyze used oil for the parameters specified in 329 IAC 13-9-3.

(3) The type of information that will be used to make the on-specification used oil fuel determination.

(Solid Waste Management Board; 329 IAC 13-7-6; filed Feb 3, 1997, 9:15 a.m.; 20 IR 1507; readopted filed Jan 10, 2001, 3:25 p.m.; 24 IR 1535)

329 IAC 13-7-7 Tracking

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 7. (a) Used oil processors and re-refiners must keep a record of each used oil shipment accepted for processing or 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:

(1) The name and address of the transporter who delivered the used oil to the processor or re-refiner.

(2) The name and address of the generator or processor or re-refiner from whom the used oil was sent for processing or re-refining.

(3) The EPA identification number of the transporter who delivered the used oil to the processor or re-refiner.

(4) The EPA identification number, if applicable, of the generator or processor or re-refiner from whom the used oil was sent for processing or re-refining.

(5) The quantity of used oil accepted.

(6) The date of acceptance.

(b) Used oil processor or re-refiners must keep a record of each shipment of used oil that is shipped to a used oil burner, processor, or 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:

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

- (2) The name and address of the burner, processor, or re-refiner or disposal facility who will receive the used oil.
- (3) The EPA identification number of the transporter who delivers the used oil to the burner, processor, or re-refiner or disposal facility.
- (4) The EPA identification number of the burner, processor, or re-refiner or disposal facility who will receive the used oil.
- (5) The quantity of used oil shipped.
- (6) The date of shipment.

(c) The records described in this section must be maintained for at least three (3) years. (*Solid Waste Management Board; 329 IAC 13-7-7; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1508; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-7-8 Operating record and reporting

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 8. (a) The owner or operator must keep at the facility a written operating record that contains the following information recorded, as it becomes available, and maintained in the operating record until closure of the facility:

- (1) Records and results of used oil analyses performed as described in the analysis plan required under section 6 of this rule.
- (2) Summary reports and details of all incidents that require implementation of the contingency plan as specified in section 3(b) of this rule.

(b) A used oil processor or re-refiner must report to the commissioner, in the form of a letter, on a biennial basis by March 1 of each even-numbered year, the following information concerning used oil activities during the previous calendar year:

- (1) The EPA identification number, name, and address of the processor or re-refiner.
- (2) The calendar year covered by the report.
- (3) The quantities of used oil accepted for processing or re-refining, and the manner in which the used oil is processed or re-refined, including the specific processes employed.

(*Solid Waste Management Board; 329 IAC 13-7-8; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1508; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-7-9 Off-site shipments of used oil

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 9. Used oil processors or re-refiners who initiate shipments of used oil off-site must ship the used oil using a used oil transporter who has obtained an EPA identification number. (*Solid Waste Management Board; 329 IAC 13-7-9; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1509; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-7-10 Management of residues

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 10. Owners and operators who generate residues from the storage, processing, or re-refining of used oil must manage the residues as specified in 329 IAC 13-3-1(e). (*Solid Waste Management Board; 329 IAC 13-7-10; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1509; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

Rule 8. Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery

329 IAC 13-8-1 Applicability

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 1. (a) This rule applies to used oil burners except as specified in this subsection. A used oil burner is a facility where used oil not meeting the specification requirements in 329 IAC 13-3-2 is burned for energy recovery in devices identified in section 2(a)

of this rule. Facilities burning used oil for energy recovery under either of the following conditions are not subject to this rule:

- (1) The used oil is burned by the generator in an on-site space heater under 329 IAC 13-4-4.
- (2) The used oil is burned by a processor or re-refiner for purposes of processing used oil, which is considered burning incidentally to used oil processing.

(b) Used oil burners who conduct the following activities are also subject to the requirements of other applicable provisions of this article:

- (1) Burners who generate used oil must also comply with 329 IAC 13-4.
- (2) Burners who transport used oil must also comply with 329 IAC 13-6.
- (3) Except as provided in section 2(b) of this rule, burners who process or re-refine used oil must also comply with 329 IAC 13-7.
- (4) Burners who:
 - (A) direct shipments of off-specification used oil from their facility to a used oil burner; or
 - (B) first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in 329 IAC 13-3-2;

must also comply with 329 IAC 13-9.

- (5) Burners who dispose of used oil must comply with 329 IAC 13-10.

(c) This rule does not apply to persons burning used oil that meets the used oil fuel specification of 329 IAC 13-3-2, provided that the burner complies with the requirements of 329 IAC 13-9. (*Solid Waste Management Board; 329 IAC 13-8-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1509; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-8-2 Restriction on burning

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 260.10; 40 CFR 264; 40 CFR 265

Sec. 2. (a) Off-specification used oil fuel may be burned for energy recovery in only the following devices:

- (1) Industrial furnaces identified in 40 CFR 260.10.
- (2) Boilers, as defined in 40 CFR 260.10, that are identified as follows:
 - (A) 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.
 - (B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.
 - (C) Used oil-fired space heaters provided that the burner meets the provisions of 329 IAC 13-4-4.

- (3) Hazardous waste incinerators subject to regulation under 40 CFR 264 Subpart O or 40 CFR 265.

(b) With the exception described in this subsection, used oil burners may not process used oil unless they also comply with the requirements of 329 IAC 13-7. 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. (*Solid Waste Management Board; 329 IAC 13-8-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1509; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-8-3 Notification

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 3. (a) Used oil burners who have not previously complied with the notification requirements of RCRA Section 3010 must comply with this rule and obtain an EPA identification number.

(b) A used oil burner requiring an EPA identification number who has not received an EPA identification number shall obtain one by notifying the commissioner of their used oil activity by submitting a completed EPA Form 8700-12, Notification of Regulated Waste Activity Report. To request EPA Form 8700-12, call the department at (317) 232-7956. Completed forms shall be mailed to the Indiana Department of Environmental Management, Office of Land Quality, P.O. Box 7035, Indianapolis, Indiana 46207-7035. (*Solid Waste Management Board; 329 IAC 13-8-3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1509; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-8-4 Rebuttable presumption for used oil

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 261; 40 CFR 279.63

Sec. 4. (a) To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of 329 IAC 13-3-1(b)(1)(B), a used oil burner must determine whether the total halogen content of used oil managed at the facility is above or below one thousand (1,000) parts per million.

(b) The used oil burner must determine if the used oil contains above or below one thousand (1,000) parts per million 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 or refiner subject to regulation under 329 IAC 13-7, using information provided by the processor or re-refiner.

(c) If the used oil contains greater than or equal to one thousand (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, revised as of July 1, 2005. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste. For example, this may be done by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 40 CFR 261, Appendix VIII, revised as of July 1, 2005. The rebuttable presumption does not apply to the following:

(1) Metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in 329 IAC 13-4-5(c), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner or disposed.

(2) 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) Records of analyses conducted or information used to comply with this section must be maintained by the burner for at least three (3) years. (*Solid Waste Management Board; 329 IAC 13-8-4; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1510; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jun 9, 2006, 3:40 p.m.: 20060712-IR-329050066FRA*)

329 IAC 13-8-5 Used oil storage

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 112; 40 CFR 264; 40 CFR 265; 40 CFR 280

Sec. 5. (a) In addition to the requirements of this rule, used oil burners are also subject to the following:

- (1) All applicable spill prevention, control, and countermeasures found at 40 CFR 112.
- (2) The underground storage tank standards found at 40 CFR 280 for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste.
- (3) All applicable regulations of the Indiana fire prevention and building safety commission.

(b) Used oil burners may not store used oil in units other than tanks, containers, or units subject to regulation under 40 CFR 264 or 40 CFR 265.

(c) Containers and aboveground tanks used to store oil at burner facilities must:

- (1) be in good condition with no severe rusting, apparent structural defects, or deterioration; and
- (2) not be leaking (no visible leaks).

(d) Containers used to store used oil at burner facilities must be equipped with a secondary containment system. The secondary containment system must:

- (1) consist of, at a minimum:
 - (A) dikes, berms, or retaining walls; and
 - (B) the floor must cover the entire area within the dike, berm, or retaining wall; and
- (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, ground water, or surface water.

(3) The secondary containment system must be able to contain either at least ten percent (10%) of the total volume of the containers used to store used oil or the volume of the largest container used to store used oil at a burner facility, whichever is greater.

(e) Existing aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system and meet the following requirements:

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

(A) dikes, berms, or retaining walls, and a floor that must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

(B) 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, ground water, or surface water.

(3) The secondary containment system must be designed or operated to contain one hundred percent (100%) of the capacity of the largest tank within the secondary containment boundary.

(f) New aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system and meet the following requirements:

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

(A) dikes, berms, or retaining walls, and a floor that must cover the entire area within the dike, berm, or retaining wall; or

(B) 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, ground water, or surface water.

(3) The secondary containment system must be designed or operated to contain one hundred percent (100%) of the capacity of the largest tank within the secondary containment boundary.

(g) Requirements for labels shall be as follows:

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

(2) 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".

(h) Upon detection of a release of used oil to the environment not subject to the requirements of 40 CFR 280 Subpart F, which has occurred after the effective date of this article, a burner must perform the following clean-up steps:

(1) Stop the release.

(2) Contain the released used oil.

(3) Clean up and manage properly the released used oil and other materials.

(4) Communicate a spill report in accordance with 327 IAC 2-6.1.

(5) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Solid Waste Management Board; 329 IAC 13-8-5; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1510; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1622; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470)

329 IAC 13-8-6 Tracking

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 6. (a) 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:

(1) The name and address of the transporter who delivered the used oil to the burner.

(2) The name and address of the generator or processor or re-refiner from whom the used oil was sent to the burner.

(3) The EPA identification number of the transporter who delivered the used oil to the burner.

(4) The EPA identification number, if applicable, of the generator or processor or re-refiner from whom the used oil was sent to the burner.

(5) The quantity of used oil accepted.

(6) The date of acceptance.

(b) The records described in this section must be maintained for at least three (3) years. (*Solid Waste Management Board; 329 IAC 13-8-6; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1511; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-8-7 Notices

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 7. (a) Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor or re-refiner, the burner must provide to the generator, transporter, or processor or re-refiner a one (1) time written and signed notice certifying the following:

(1) The burner has notified EPA stating the location and general description of the burner's used oil management activities.

(2) The burner will burn the used oil only in an industrial furnace or boiler identified in section 2(a) of this rule.

(b) The certification described in this section must be maintained for three (3) years from the date the burner last receives shipment of off-specification used oil from that:

(1) generator;

(2) transporter; or

(3) processor or re-refiner.

(*Solid Waste Management Board; 329 IAC 13-8-7; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1511; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-8-8 Management of residues

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 8. Burners who generate residues from the storage or burning of used oil must manage the residues as specified in 329 IAC 13-3-1(e). (*Solid Waste Management Board; 329 IAC 13-8-8; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1512; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

Rule 9. Used Oil Fuel Marketers

329 IAC 13-9-1 Applicability

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 1. (a) Any person who conducts either of the following activities is subject to the requirements of this rule:

(1) Directs a shipment of off-specification used oil from their facility to a used oil burner.

(2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in 329 IAC 13-3-2.

(b) The following persons are not marketers subject to this rule:

(1) 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 and 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 processors or re-refiners who incidentally burn used oil are not marketers subject to this rule.

(2) 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 329 IAC 13-3-2.

(c) Any person subject to the requirements of this rule must also comply with one (1) of the following:

(1) 329 IAC 13-4, used oil generators.

(2) 329 IAC 13-6, used oil transporters and transfer facilities.

(3) 329 IAC 13-7, used oil processors and re-refiners.

(4) 329 IAC 13-8, used oil burners who burn off-specification used oil for energy recovery.

(Solid Waste Management Board; 329 IAC 13-9-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1512; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-9-2 Prohibitions

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 2. A used oil fuel marketer may initiate a shipment of off-specification used oil only to a used oil burner who:

(1) has an EPA identification number; and

(2) burns the used oil in an industrial furnace or boiler identified in 329 IAC 13-8-2(a).

(Solid Waste Management Board; 329 IAC 13-9-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1512; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

329 IAC 13-9-3 On-specification used oil fuel

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 3. (a) A:

(1) generator;

(2) transporter;

(3) processor or re-refiner; or

(4) burner;

may determine that used oil that is to be burned for energy recovery meets the fuel specifications of 329 IAC 13-3-2 by performing analyses or obtaining copies of analyses or other information documenting that the used oil fuel meets the specifications.

(b) A:

(1) generator;

(2) transporter;

(3) processor or re-refiner; or

(4) burner;

who first claims that used oil that is to be burned for energy recovery meets the specifications for used oil fuel under 329 IAC 13-3-2, must keep copies of analyses of the used oil or other information used to make the determination for three (3) years. *(Solid Waste Management Board; 329 IAC 13-9-3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1512; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-9-4 Notification

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 4. (a) A used oil fuel marketer subject to the requirements of this rule who has not previously complied with the notification requirements of RCRA Section 3010 must comply with this rule and obtain an EPA identification number.

(b) A marketer requiring an EPA identification number who has not received an EPA identification number shall obtain one by notifying the commissioner of their used oil activity by submitting a completed EPA Form 8700-12, Notification of Regulated Waste Activity Report. To request EPA Form 8700-12, call the department at (317) 232-7956. Completed forms shall be mailed to the Indiana Department of Environmental Management, Office of Land Quality, P.O. Box 7035, Indianapolis, Indiana 46207-7035. *(Solid Waste Management Board; 329 IAC 13-9-4; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1512; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

329 IAC 13-9-5 Tracking

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 5. (a) 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:

- (1) The name and address of the transporter who delivers the used oil to the burner.
- (2) The name and address of the burner who will receive the used oil.
- (3) The EPA identification number of the transporter who delivers the used oil to the burner.
- (4) The EPA identification number of the burner.
- (5) The quantity of used oil shipped.
- (6) The date of shipment.

(b) A generator, transporter, processor or re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the fuel specifications under 329 IAC 13-3-2 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:

- (1) The name and address of the facility receiving the shipment.
- (2) The quantity of used oil fuel delivered.
- (3) The date of shipment or delivery.
- (4) 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 section 3(a) of this rule.

(c) The records described in this section must be maintained for at least three (3) years. (*Solid Waste Management Board; 329 IAC 13-9-5; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1513; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Apr 13, 2005, 11:30 a.m.: 28 IR 2669*)

329 IAC 13-9-6 Notices

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 6. (a) Before a used oil generator, transporter, or processor or re-refiner directs the first shipment of off-specification used oil fuel to a burner, the used oil generator, transporter, or processor or re-refiner must obtain a one (1) time written and signed notice from the burner certifying the following:

- (1) The burner has notified EPA or the department stating the location and general description of used oil management activities.
- (2) The burner will burn the off-specification used oil only in an industrial furnace or boiler identified in 329 IAC 13-8-2(a).

(b) The certification described in this section must be maintained for three (3) years from the date the last shipment of off-specification used oil is shipped to the burner. (*Solid Waste Management Board; 329 IAC 13-9-6; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1513; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

Rule 10. Dust Suppressant and Disposal of Used Oil

329 IAC 13-10-1 Applicability

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 1. The requirements of this rule apply to all used oils that cannot be recycled and are therefore being disposed. (*Solid Waste Management Board; 329 IAC 13-10-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1513; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-10-2 Disposal

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 2. (a) Used oils that are identified as a hazardous waste and cannot be recycled in accordance with this article must be managed in accordance with the hazardous waste management requirements of 329 IAC 3.1.

(b) Used oils that are not hazardous wastes and cannot be recycled under this article must be disposed in accordance with the requirements of 329 IAC 10. (*Solid Waste Management Board; 329 IAC 13-10-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1513; errata filed Feb 3, 1997, 9:15 a.m.: 20 IR 1593; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

329 IAC 13-10-3 Use as a dust suppressant

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30-2-1

Sec. 3. The use of used oil as a dust suppressant is prohibited in accordance with IC 13-30-2-1(14). (*Solid Waste Management Board; 329 IAC 13-10-3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1513; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

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