

7045.0865 STANDARDS FOR USED OIL TRANSPORTERS AND TRANSFER FACILITIES.

Subpart 1. **Applicability.** Except as provided in this subpart, this part applies to all used oil transporters.

A. This part does not apply to on-site transportation of used oil.

B. This part does not apply to generators who transport shipments of used oil in accordance with part 7045.0855, subpart 4, item A.

C. This part does not apply to transportation of do-it-yourselfer used oil to a regulated used oil generator, collection center, aggregation point, processor/rerefiner, or burner subject to the requirements of parts 7045.0790 to 7045.0990. Except as provided in items A and B, this part does apply to transportation of collected do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where do-it-yourselfer used oil is collected.

Subp. 2. **Imports and exports.** Transporters who import used oil from abroad or export used oil outside of the United States are subject to the requirements of this part from the time the used oil enters and until the time it exits the United States.

Subp. 3. **Trucks used to transport hazardous waste.** Unless trucks previously used to transport hazardous waste are emptied as described in part 7045.0127 prior to transporting used oil, the used oil is considered to have been mixed with a hazardous waste and the used oil transporter must manage the mixture as a hazardous waste unless, under the provisions of part 7045.0800, the mixture is determined not to be hazardous waste.

Subp. 4. **Restrictions on transporters who are not also processors or rerefiners.**

A. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in items B and C, used oil transporters must not process used oil unless they also comply with the requirements for processors/rerefiners in part 7045.0875.

B. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (for example, settling, particulate filtering, and water separation), but shall not conduct processing operations that are designed to produce or make used oil more amenable for the production of used oil-derived products.

C. Transporters may remove used oil from oil-bearing electrical transformers and turbines and filter the used oil at the site of generation or at a transfer facility prior to returning the used oil to its original use.

Subp. 5. **Notification.** Used oil transporters who have not notified the United States Environmental Protection Agency that they are transporters of used oil must submit a completed EPA form 8700-12 to EPA indicating their used oil transportation activities.

Subp. 6. Used oil transportation.

A. A used oil transporter must deliver all used oil received to either another used oil transporter with an identification number, a used oil processor/rerefiner with an identification number, an off-specification used oil burner facility with an identification number, or an on-specification used oil burner facility.

B. Used oil transporters must comply with all applicable requirements under the United States Department of Transportation regulations in Code of Federal Regulations, title 49, parts 171 to 180, as amended. Persons transporting used oil that meets the definition of a hazardous material in Code of Federal Regulations, title 49, section 171.8, must comply with all applicable regulations in Code of Federal Regulations, title 49, parts 171 to 180, as amended.

Subp. 7. Used oil discharges.

A. Transporters who transport more than 10,000 gallons of used oil per month are subject to the requirements of Minnesota Statutes, chapter 115E, for preparedness to respond to discharges.

B. 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 (for example, notify local authorities, dike the discharge area). Used oil transporters are subject to the requirements of Minnesota Statutes, section 115.061, and chapter 115E. In the event of a discharge of more than five gallons of used oil during transportation, the transporter must report the discharge to the state duty officer at (651) 649-5451 or (800) 422-0798.

C. 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 identification numbers.

D. An air, rail, highway, or water transporter who has discharged used oil must give notice, if required by Code of Federal Regulations, title 49, section 171.15, as amended, to the National Response Center (800) 424-8802, and report in writing as required by Code of Federal Regulations, title 49, section 171.16, as amended, to the Information Systems Manager, PHH-63, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Washington, D.C. 20590-0001, or submit an electronic hazardous materials incident report to the Information Systems Manager, DHM-63, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Washington, D.C. 20590-0001 at <http://hazmat.dot.gov>.

E. A water transporter who has discharged used oil must give notice as required by Code of Federal Regulations, title 33, section 153.203, as amended.

F. A transporter must clean any used oil discharge that occurs during transportation or take such actions 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.

Subp. 8. Rebuttable presumption for used oil.

A. To ensure that used oil is not a hazardous waste under the rebuttable presumption of part 7045.0800, subpart 3, 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 1,000 ppm, unless the used oil is exempt from the rebuttable presumption by part 7045.0800, subpart 3, items A and B.

B. The transporter must make this determination by testing the used oil, or by applying knowledge of the halogen content of the used oil in light of the materials or processes used in generating the used oil.

C. If the used oil contains at least 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in part 7045.0135. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste as allowed for in part 7045.0800, subpart 3.

D. The transporter must maintain records of analyses conducted or information used to comply with items A to C for at least three years.

Subp. 9. Used oil storage at transfer facilities. This subpart applies to used oil transfer facilities where used oil is stored for more than 24 hours and no more than 35 days. Transfer facilities where used oil is stored for more than 35 days are subject to regulation under part 7045.0875.

A. Used oil transporters shall comply with all applicable spill prevention, control, and countermeasures requirements of Code of Federal Regulations, title 40, part 112, as amended, in addition to the requirements of this part. Used oil transporters shall also comply with the underground storage tank standards of chapter 7150 for used oil stored in underground tanks, whether or not the used oil exhibits any characteristic of hazardous waste, in addition to the requirements of this part.

B. Used oil transporters who store used oil in aboveground tanks are subject to chapter 7151, in addition to the requirements of this part. Used oil transporters who store at least 10,000 gallons of used oil at one time are subject to the requirements of Minnesota Statutes, chapter 115E, to prepare and maintain a discharge prevention and response plan, in addition to the requirements of this part. All used oil transporters shall comply with the storage and use requirements of the Minnesota State Fire Code, chapter 7510, in addition to the requirements of this part.

C. Used oil transporters shall not store used oil in units other than containers or tanks and shall ensure that the following requirements for containers and tanks are met. Containers and tanks used to store used oil at transfer facilities must be in good condition, not leaking, and closed. Containers must be equipped with a secondary containment system consisting of dikes, berms, or retaining walls and a floor that covers the entire area within the dikes, berms, or retaining walls, or an equivalent secondary containment system. 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, groundwater, or surface water. Containers, aboveground tanks, and fill pipes of underground tanks used to store used oil at transfer facilities must be marked with the words "Used Oil." Aboveground tanks used to store used oil at transfer facilities may also be subject to the secondary containment requirements and other requirements in chapter 7151.

D. Upon detection of a release of used oil to the environment not subject to the requirements of Code of Federal Regulations, title 40, part 280, subpart F, as amended, a transporter must stop the release, contain the released used oil, clean up, and manage properly the released used oil and other materials contaminated with used oil, and repair or replace any leaking used oil storage equipment prior to returning it to service to prevent future releases. A transporter who discharges more than five gallons of used oil is subject to the notification requirements of Minnesota Statutes, section 115.061.

Subp. 10. **Tracking.** Used oil transporters must maintain the records listed in this subpart for at least three years. Upon request of the commissioner, the transporter must supply information regarding the amount of used oil collected in the previous calendar year.

A. Used oil transporters must keep a record of each used oil shipment accepted for transport. Records for each shipment must include: the name, address, and identification number of the generator, transporter, or processor/rerefiner who provided the used oil for transport; the quantity of used oil accepted; the date of acceptance; and, except for intermediate rail transporters, the signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor/rerefiner 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/rerefiner. Records of each delivery must include: the name and address of the receiving facility or transporter; the identification number of the receiving facility or transporter; the quantity of used oil delivered; the date of delivery; and, 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 item B for each shipment of used oil to any foreign country.

Subp. 11. **Receipts.** Used oil transporters must provide receipts to all parties from which they accept used oil. The receipts must clearly indicate the name, address, and identification number of the transporter, the date of acceptance, and the quantity of used oil accepted.

Subp. 12. **Management of residues.** Transporters who generate residues from the storage or transport of used oil must manage the residues as specified in part 7045.0815.

Subp. 13. **Closure.**

A. Owners and operators who store or process used oil in aboveground tanks must, at closure of the tank system, remove or decontaminate residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil and manage them as hazardous waste unless the materials are not hazardous waste under parts 7045.0102 to 7045.0155. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in this item, then the owner or operator must close the tank system and perform postclosure care in accordance with the closure and postclosure care requirements of part 7045.0638, subpart 4, that apply to hazardous waste landfills.

B. Owners and operators who store used oil in containers must, at closure, remove containers holding used oils or residues of used oil from the site. The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste unless the materials are not hazardous waste under parts 7045.0102 to 7045.0155.

Subp. 14. **Other applicable provisions.** Used oil transporters who conduct the following activities are also subject to other applicable provisions of this part as indicated in items A to D.

A. Transporters who generate used oil must also comply with part 7045.0855.

B. Transporters who process or rerefine used oil, except as provided in subpart 4, must also comply with part 7045.0875.

C. Transporters who burn off-specification used oil for energy recovery must also comply with part 7045.0885.

D. Transporters who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that the used oil that is to be burned meets the used oil fuel specifications in part 7045.0840 must also comply with part 7045.0895.

Statutory Authority: *MS s 116.07*

History: *20 SR 715; 22 SR 5; 22 SR 2300; 32 SR 10; 33 SR 2042*

Published Electronically: *October 10, 2013*