

7045.0885 STANDARDS FOR USED OIL BURNERS WHO BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY.

Subpart 1. **Applicability.** The requirements of this part apply to used oil burners, except persons or facilities burning used oil under the following conditions:

A. the used oil is burned by the generator in an on-site burning unit under the provisions of part 7045.0855, subpart 3;

B. the used oil is burned by a processor/rerefiner for purposes of processing used oil which is considered burning incidentally to used oil processing; or

C. the used oil meets the used oil fuel specifications of part 7045.0840, provided that the burner complies with the requirements of part 7045.0895.

Subp. 2. **Restrictions on burning.** No person shall burn off-specification used oil fuel for energy recovery in other than the following devices:

A. industrial furnaces defined in part 7045.0020, subpart 43b;

B. boilers, as defined in part 7045.0020, subpart 6a;

C. used oil-fired burning units provided the unit meets the provisions of part 7045.0855, subpart 3;

D. hazardous waste incinerators subject to regulation under part 7045.0542 or 7045.0640; or

E. marine and diesel engines.

Subp. 3. **Restrictions on processing.** Used oil burners may not process used oil unless they also comply with the requirements of this part, with the following exception. Used oil burners may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but must not aggregate for purposes of producing on-specification used oil.

Subp. 4. **Notification.** Used oil burners who have not notified the United States Environmental Protection Agency that they are burners of used oil must submit a completed EPA form 8700-12 to EPA indicating their used oil burning activities.

Subp. 5. **Rebuttable presumption for used oil.**

A. To ensure that used oil managed at a used oil burning facility is not a hazardous waste under the rebuttable presumption of part 7045.0800, subpart 3, the used oil burner must determine whether the total halogen content of used oil managed at the 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 burner must make this determination by testing the used oil, by applying knowledge of the halogen content of the used oil in light of the materials or processes used in generating the used oil. If the used oil has been received from a processor/rerefiner subject to regulation under this part, by using information provided by the processor/rerefiner.

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. Records of analyses conducted or information used to comply with items A to C must be maintained by the burner for at least three years.

Subp. 6. Used oil storage.

A. Applicability of federal storage regulations. Used oil burners must 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 subpart. Used oil burners must 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 burners who store used oil in aboveground tanks are subject to chapter 7151, in addition to the requirements of this subpart. Used oil burners 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 burners 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 burners shall not store used oil in units other than containers or tanks and must ensure that the following requirements for containers and tanks are met. Containers and tanks used to store used oil at burning facilities must be in good condition, not leaking, and closed. Containers must be equipped with a secondary containment system. The secondary containment system must consist of, at a minimum, dikes, berms, or retaining walls, and a floor which covers the entire area within the dike, berm, or retaining wall. An equivalent secondary containment system may be used for containers. 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, 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 burning 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 burner must stop the release, contain the released used oil, clean up and properly manage 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 burner who discharges more than five gallons of used oil is subject to the notification requirements of Minnesota Statutes, section 115.061.

Subp. 7. **Tracking and acceptance.** 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. Used oil burners must maintain these records for at least three years. Upon request of the commissioner, the burner must supply information regarding the amount of used oil received at the burning facility in the previous calendar year. Records for each shipment must include the following information:

- A. the name and address of the transporter who delivered the used oil to the burner;
- B. the name and address of the generator or processor/rerefiner from whom the used oil was sent to the burner, if applicable;
- C. the identification number of the transporter who delivered the used oil to the burner;
- D. the identification number of the generator or processor/rerefiner from whom the used oil was sent to the burner, if applicable;
- E. the quantity of used oil accepted; and
- F. the date of acceptance.

Subp. 8. **Notices and certification.** Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor/rerefiner, the generator must provide the generator, transporter, or processor/rerefiner a one-time, written, and signed notice certifying that the burner has notified the EPA of used oil management activities at the facility and the location of the facility, and that the burner will burn used oil only in an industrial furnace or boiler identified in subpart 2. This certification must be maintained for at least three years from the date the burner last receives shipment of off-specification used oil from the generator, transporter, or processor/rerefiner.

Subp. 9. **Management of residues.** Burners who generate residues from the storage or burning of used oil must manage the residues as specified in part 7045.0815.

Subp. 10. **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. 11. **Other applicable provisions.** Used oil burners who conduct the following activities are also subject to the requirements of other applicable provisions as indicated below:

- A. burners who generate used oil must also comply with part 7045.0855;
- B. burners who transport used oil must also comply with part 7045.0865;
- C. except as provided in subpart 3, burners who process or rerefine used oil must also comply with part 7045.0875; and
- D. burners 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 in part 7045.0795, must also comply with part 7045.0895.

Statutory Authority: *MS s 116.07*

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