

Chapter NR 590

USED OIL MANAGEMENT STANDARDS

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Note: Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1997, No. 500.

Subchapter I—General

NR 590.01 Purpose. The purpose of this chapter is to provide standards for the management of used oil by recycling that are protective of human health and the environment.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.02 Applicability. (1) This chapter applies to used oil and to materials identified in this chapter as being subject to regulation as used oil.

Note: This chapter also identifies some materials that are not subject to regulation as used oil and indicates whether these materials may be subject to regulation as hazardous waste under chs. NR 600 to 685.

Note: Used oil filters are regulated as solid waste and are exempt from regulation as hazardous waste if they are properly managed and are not terne plated, as specified in s. NR 605.05 (1) (v).

(2) This chapter applies to used oil generators, collection centers, transporters and transfer facilities, processors and re-refiners, burners, and marketers.

(3) Subchapter I applies to all persons to whom this chapter applies. The individual subchapters apply as specified in the subchapter applicability sections.

(4) (a) Except as provided in s. NR 590.04 (1) (b), mixtures of used oil and fuels or other products are subject to regulation as used oil under this chapter.

(b) 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 subject to the requirements of ss. NR 590.11 to 590.15 prior to mixing.

Note: Used oil managed in this manner is not subject to this chapter once the used oil and diesel fuel have been mixed.

(5) Materials produced from used oil that are burned for energy recovery are subject to regulation as used oil under this chapter.

(6) Used oil that is placed directly into a crude oil or natural gas pipeline is subject to the management standards of this chapter prior to the point of introduction to the pipeline.

Note: Once used oil is introduced into a pipeline, the material is exempt from this chapter, as stated in s. NR 590.04 (1) (d).

(7) Used oil produced on vessels from normal shipboard operations is subject to this chapter after 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 chapter once the used oil is transported ashore. The co-generators may decide among them which party will fulfill the requirements of this chapter.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.03 Definitions. In this chapter:

(1) "Above ground tank" means a tank that is used to store or process used oil that is not an underground tank.

(2) "Aggregation point" or "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 55 gallons under the provisions of s. NR 590.15 (2). "Aggregation point" includes facilities that accept used oil from consumers.

(3) "Automotive engine oil" means "any oil to be used in the engine or crankcase of a motor vehicle."

(4) "Beneficial use or reuse" means the use of used oil as an ingredient or feedstock in production processes, the use of used oil

as a substitute for raw material in processes that usually use raw materials as feedstocks or using used oil as a substitute for commercial products. This term does not include burning for energy recovery or use in a manner constituting disposal.

(5) "Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

(a) The unit has physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids or heated gases; and

(b) The unit's combustion chamber and primary energy recovery sections are of integral design. To be of integral design, the combustion chamber and the primary energy recovery sections shall be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters and fluidized bed combustion units; and

Note: Examples of primary energy recovery sections include waterwalls and superheaters.

Note: Examples of secondary energy recovery equipment include economizers and air preheaters.

Note: Process heaters are units that transfer energy directly to a process stream.

(c) While in operation, the unit maintains a thermal energy recovery efficiency of at least 60%, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(d) The unit exports and utilizes at least 75% of the recovered energy, calculated on an annual basis. In this calculation, no credit may be given for recovered heat used internally in the same unit.

Note: Examples of internal use of recovered heat are the preheating of fuel or combustion air and the driving of induced or forced draft fans or feedwater pumps.

(6) "Burner" means an owner or operator of a boiler or industrial furnace as defined in subs. (5) and (22) that burns used oil or hazardous waste fuel.

(7) "Consumer" means a person who, for personal or family purposes, purchases or uses automotive engine oil or generates, collects, stores or transports engine waste oil in quantities of less than 200 gallons per year.

(8) "Consumer used oil collection center" means any site or facility that accepts, aggregates and stores used oil collected only from consumers.

Note: "Household 'do-it-yourselfer' used oil" means oil that is derived from households, such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles or other internal combustion powered devices.

(9) "Container" means any portable enclosure in which a material is stored, transported, treated, disposed of or otherwise handled.

(10) "Critical habitat area" means any area providing habitat determined by the department to be critical to the continued existence of any endangered species listed in ch. NR 27.

(11) "Department" means the department of natural resources.

(12) "Engine waste oil" means automotive engine oil after it is used and removed from the engine or crankcase of a motor vehicle but before that oil is recycled.

(13) "Engine waste oil collection center" means a commercial or municipal establishment or operation that accepts and either temporarily accumulates engine waste oil or stores engine waste oil prior to recycling.

(14) "EPA" means the United States environmental protection agency.

(15) "EPA identification number" means the number assigned by EPA to each generator, transporter, and treatment, storage or disposal facility.

(16) "Existing tank system" or "existing tank system component" means a tank system or tank system component 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 June 1, 1995. Installation shall be considered to have commenced if the owner or operator has obtained all federal, state and local approvals, licenses or permits necessary to begin physical construction of the site or installation of the tank system and if either:

(a) A continuous on-site physical construction or installation program has begun, or

(b) The owner or operator has entered into a contract, which may not be canceled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.

(17) "Fuel oil" is defined in s. 287.15 (1) (d), Stats.

(18) "Hazardous waste" means a solid waste that meets the definition of hazardous waste in s. NR 605.04, and is not excluded by the provisions of s. NR 605.05.

(19) "Hazardous waste constituent" or "hazardous constituent" means a constituent listed in ch. NR 605, Appendix IV which caused the department to list a hazardous waste in s. NR 605.09, or a contaminant listed in Table I in s. NR 605.08.

(20) "Hazardous waste fuel" means hazardous waste burned for energy recovery and fuel produced from hazardous waste by processing, blending or other treatment.

(21) "Incinerator" means an enclosed device using controlled flame combustion that is not a boiler or an industrial furnace.

(22) "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and use controlled flame combustion to accomplish recovery of materials or energy:

(a) Cement kilns.

(b) Lime kilns.

(c) Aggregate kilns.

(d) Phosphate kilns.

(e) Blast furnaces.

(f) Smelting furnaces.

(g) Methane reforming furnaces.

(h) Combustion devices used in the recovery of sulfur values from spent sulfuric acid.

(i) Pulping liquor recovery furnaces.

(j) Coke ovens.

(k) Titanium dioxide chloride process oxidation reactors.

Note: The department may add devices to this list on the basis of one or more of the following factors: (1) The device is designed and used primarily to accomplish recovery of material products; (2) The device burns secondary materials as ingredients in an industrial process to make a material product; (3) The device burns secondary materials as effective substitutes for raw materials in processes using raw materials as principal feed stocks; (4) The device burns raw materials to make a material product; (5) The device is in common industrial use to produce a material product; (6) Other factors, as appropriate.

(23) "Land treatment" means the application of waste onto the soil surface or into the soil surface through incorporation. The term does not include the placement of waste into a landfill cell.

(24) "Legitimate recovery or reclamation" means the regeneration of used oil to remove contaminants so that the oil may be put to further use, the processing of used oil to recover usable materials or the regeneration of used oil to its original form. This term does not include the burning or beneficial use of used oil.

Note: Examples of legitimate recovery or reclamation is used oil re-refining.

(25) "Manage" or "management" means the systematic source reduction, source separation, collection, aggregation, storage, transportation, transfer, processing, re-refining or burning for energy recovery of used oil.

(26) "Marketer" or "used oil marketer" means any person who:

(a) Directs a shipment of off-specification used oil from the marketer's facility to a used oil burner; or

(b) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in s. NR 590.09.

(27) "Motor vehicle" means any vehicle propelled by an internal combustion engine and includes any automobile, truck, bus, motorcycle, snowmobile or vehicle which travels on or off roads or highways.

(28) "Municipality" means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

(29) "On-specification used oil" means used oil which meets the specifications in s. NR 590.09.

(30) "Off-specification used oil" means used oil which fails to meet the specifications in s. NR 590.09.

(31) "Operator" means the person who is responsible for the overall operation of a used oil collection or storage facility, a used oil transporter or transfer facility, a used oil processor or re-refining facility, a used oil burning facility, or a used oil marketing facility.

(32) "Owner" means the person who owns, leases or holds a department approval for a used oil collection or storage facility, a used oil transporter or transfer facility, a used oil processor or re-refining facility, a used oil burning facility, or a used oil marketing facility, or part of such a facility.

(33) "Person" means an individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency, department or instrumentality.

(34) "Pile" means any non-containerized accumulation of nonflowing solid waste that is used for treatment or storage.

(35) "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: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining.

(36) "Reclaimed oil" means engine waste oil which is processed by settling, dehydration, filtration or mixing, or combinations of those procedures, which removes some of the harmful physical and chemical characteristics which are acquired through use.

(37) "Recycled oil" means re-refined or reclaimed oil.

(38) "Recycling" means the beneficial use, reuse or legitimate recovery or reclamation of used oil. Recycling includes burning used oil for energy recovery, and the re-refining of used oil.

(39) "Re-refined oil" means engine waste oil which is processed by high temperature distillation and chemical treatment or any other process which removes all harmful physical and chemical characteristics acquired through use. In addition, re-refined oil includes used oil from sources other than engine waste oil.

(40) "Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil.

Note: The composition of still bottoms varies with column operation and feedstock.

(41) "Retail sales establishment" means a person who is engaged in the business of selling automotive engine oil to consumers.

(42) "Service establishment" means a person who is engaged in the business of servicing and removing automotive engine oil from motor vehicles for consumers.

(43) "Surface impoundment" means any natural topographic depression, constructed excavation or diked area that is formed

primarily of earthen materials and that holds or is designed to hold used oil.

(44) "Tank" means a stationary device, designed to contain an accumulation of used oil which is constructed primarily of non-earthen materials, such as wood, concrete, steel or plastic which provides structural support.

Note: Other unit operations, such as presses, filters, sumps and other types of processing equipment may be tanks.

Note: Standards for the proper management of tanks are found in ch. ILHR 10.

(45) "Tank system" means a used oil or hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

(46) "Tank system component" means either the tank or ancillary equipment of a tank system.

(47) "Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of used oil are held during the normal course of transportation.

(48) "Underground storage tank" or "UST" means any one or a combination of tanks, including connected pipes, that is used to contain an accumulation of hazardous substances, and the volume of which, including the volume of connected underground pipes, is 10% or more beneath the surface of the ground. The term does not include any of the following or pipes connected to any of the following:

(a) Septic tanks.

(b) Pipeline facilities, including gathering lines, regulated under:

1. The Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671, et seq.).

2. The Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001, et seq.).

3. State laws comparable to the provisions of the law referred to in subd. 1. or 2. for intrastate pipeline facilities.

(c) Surface impoundments, pits, ponds or lagoons.

(d) Storm water or waste water collection systems.

(e) Flow-through process tanks.

(f) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.

(g) Storage tanks situated in an underground area, such as, but not limited to, a basement, cellar, mineworking, drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor.

Note: This definition of "underground storage tank" is based on the definition found in s. ILHR 10.01 (98).

(49) "Used oil" means any petroleum-derived or synthetic oil which, as a result of use or management, is contaminated. Used oil includes, but is not limited to, the following:

1. Engine, turbine and gear lubricants.

2. Hydraulic fluid, including transmission fluid.

3. Metalworking fluid, including cutting, grinding, machining, rolling, stamping, quenching and coating oils.

4. Insulating fluid or coolant.

Note: Used oil includes engine waste oil as defined in sub. (12).

(50) "Used oil burner" means a facility where used oil not meeting the specification requirements in s. NR 590.09 is burned for energy recovery in devices identified in s. NR 590.72.

(51) "Used oil collection center" means any site or facility that accepts, aggregates and stores used oil collected from used oil generators regulated under subch. II who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of s. NR 590.15. Used oil collection centers may also accept used oil from consumers.

(52) "Used oil fuel" means any fuel designated by the department by rule that contains used oil or is produced from used oil or from a combination of used oil or other material. As used in this

chapter, used oil fuel means used oil when burned for energy recovery.

(53) 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.

(54) "Used oil processor or re-refiner" means a facility that processes or re-refines used oil.

(55) "Used oil transporter" means any person who transports used oil, any person who collects used oil from more than one generator and transports the collected oil, and owners and operators of used oil transfer facilities.

(56) "Very small quantity generator" or "VSQG" means any person who generates in a calendar month a total of less than 100 kilograms (220 pounds) of hazardous waste and does not accumulate at any time quantities of hazardous waste greater than 1000 kilograms (2,205 pounds) and does not exceed the limitations in s. NR 610.09 on generating or accumulating acute hazardous waste.

(57) "Waste oil" is defined in s. 287.15 (1) (k), Stats.

(58) "Wetland" means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.04 Exemptions. (1) GENERAL EXEMPTIONS. The following are exempt from regulation under this chapter, except for the prohibitions in s. NR 590.05:

(a) *Mixtures of used oil and diesel fuel.* Mixtures of used oil and diesel fuel that are mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this chapter once the used oil and diesel fuel have been mixed.

Note: Prior to mixing, the used oil is regulated under ss. NR 590.11 to 590.15.

(b) *Materials derived from used oil.* 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 are:

- a. Not used oil and thus are not subject to this chapter, and
 - b. Not solid wastes and are thus not subject to hazardous waste regulations.
2. Re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are:

- a. Not subject to this chapter, and
- b. Not subject to hazardous waste regulations.

(c) *Used oil introduced into crude oil or natural gas pipelines.* Used oil that is placed directly into a crude oil or natural gas pipeline is exempt from the requirements of this chapter once the used oil is introduced to the pipeline.

Note: Prior to the point of introduction to the pipeline the used oil is subject to the management standards of this chapter, as stated in s. NR 590.02 (5).

(d) *Used oil on vessels.* Used oil produced on vessels from normal shipboard operations is not subject to the requirements of this chapter until it is transported ashore.

Note: Once the used oil is transported ashore, the used oil is subject to the requirements of this chapter, as stated in s. NR 590.02 (6).

(e) *Farmers.* Farmers who generate an average of 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 chapter except for the prohibitions identified in s. NR 590.05.

(f) *Consumers.* Consumers are not subject to the requirements of this chapter except for the prohibitions identified in s. NR 590.05.

(2) **LIMITED EXEMPTIONS.** The following are exempt from regulation under this chapter, except for the prohibitions in s. NR 590.05, but may be regulated under another program:

(a) *Persons who manage hazardous waste by mixing hazardous waste with used oil.* This constitutes the treatment of hazardous waste and the provisions of chs. NR 600 to 685 apply to such

activities, except as provided in s. NR 590.14 (2). This mixture is regulated under s. NR 590.10.

(b) *Persons who manage used oil that has been mixed with PCBs.* The provisions of ch. NR 157 apply to the management of PCBs, including used oil that contains PCBs.

(c) *Persons who manage used oil not destined for recycling or who own or operate facilities that manage used oil by some method other than recycling.* The department presumes that used oil is to be recycled. Facilities that manage used oil that is hazardous waste, and that will not be recycled are subject to regulation under chs. NR 600 to 685, as applicable. Facilities that manage used oil that is not hazardous waste, and that will not be recycled are subject to regulation under chs. NR 500 to 522, as applicable.

Note: Persons complying with all the requirements of this chapter are exempt from obtaining a solid waste processing license under ch. NR 502 for the processing of used oil to be recycled. If other solid wastes are processed, then a license must be obtained for the processing of the other solid wastes.

(d) *Materials derived from used oil that are disposed.* Except as provided in sub. (1) (b), materials derived from used oil that are disposed of or used in a manner constituting disposal are:

1. Not used oil and thus are not subject to this chapter, and
2. Are subject to solid waste regulations and to hazardous waste regulations if the materials are identified as hazardous waste.

(e) *Wastewater.* Wastewater, the discharge of which is subject to regulation under chs. NR 200 to 299, contaminated with de minimis quantities of used oil is not subject to the requirements of this chapter.

Note: "De minimis" quantities of used oils are 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.

(f) *Rebuttable presumption for used oil.* The rebuttable presumption for used oil of s. NR 590.11 applies to used oil managed by generators. Under the rebuttable presumption for used oil of s. NR 590.11, used oil containing greater than 1,000 ppm total halogens is presumed to be a hazardous waste and thus shall be managed as hazardous waste and not as used oil unless the presumption is successfully rebutted. However, the rebuttable presumption does not apply to certain metalworking oils or fluids and certain used oils removed from refrigeration units.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.05 Prohibitions. The following activities are prohibited:

(1) No person may dispose of waste oil in surface impoundments or waste piles.

(2) (a) No person may dispose of waste oil or material containing waste oil in a solid waste disposal facility, except as provided in par. (b).

(b) Material containing, or otherwise contaminated with, minimal amounts of oil from which the oil has been removed to the extent possible such that no visible signs of free flowing oil remain in or on the material, may be disposed of in a solid waste disposal facility, provided the material is not listed or identified as hazardous waste.

Note: The department encourages the recycling of used oil including oil-soaked rags and similar materials, by the use of laundering services, burning for energy recovery and other recycling methods.

Note: Disposal of petroleum contaminated soil and materials into solid waste disposal facilities shall be done in accordance with the applicable provisions of chs. NR 419, 506 and 722.

(c) Oil drained or removed from materials containing or otherwise contaminated with oil is subject to regulation as used oil.

Note: The department encourages that solid waste material from which oil is removed, such as used oil filters that have been drained in accordance with s. NR 605.05 (1) (v), be recycled. If the material cannot be recycled, it should be properly characterized and disposed of in accordance with the requirements of chs. NR 500 to 520 and NR 600 to 685.

(d) No person may mix oil with other material for the purpose of avoiding the prohibition of s. 287.07 (1m) (b) Stats.

(3) No person may burn waste oil in a solid waste treatment facility without energy recovery.

Note: According to 287.07 (1m) (b), Stats., no person may dispose of waste oil in a solid waste disposal facility or burn waste oil without energy recovery in a solid waste treatment facility.

(4) No person may use used oil for dust suppression or road treatment.

(5) The land treatment of used oil is prohibited, except as allowed by ch. NR 518.

(6) No person may place noncontainerized or bulk used oil in any salt dome formation, underground mine or cave.

(7) Except as allowed by s. NR 590.14, no person may burn off-specification used oil for energy recovery, except in any of the following devices:

(a) Industrial furnaces identified in s. NR 590.03.

(b) Boilers, as defined in s. NR 590.03, and as identified as follows:

1. 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.

2. Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.

(c) Hazardous waste incinerators subject to regulation under ch. NR 665 or 40 CFR 266 Subpart H.

(8) Except as allowed by s. NR 590.14 (2), no person may mix hazardous waste with used oil without first obtaining a license to treat hazardous waste pursuant to ch. NR 680.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.06 Applicability of other regulations.

(1) GENERAL. The provisions of this chapter do not exempt any person from any other regulations, except as explicitly stated in this chapter.

Note: The following regulations may apply:

(a) Chapters NR 158, "Notification of the Discharge of Hazardous Substances," and NR 705 - "Discharge Reporting and Source Confirmation for Underground Storage Tank Systems."

(b) Chapters NR 500 to 520 - "Solid and Hazardous Waste Management."

(c) Chapters NR 600 to 685 - "Hazardous Waste Management."

(d) Chapter ILHR 10 - "Flammable and Combustible Liquids."

(e) Chapters NR 700 to 736, "Investigation and Remediation of Environmental Contamination."

(2) USED OIL DISCHARGES. (a) In the event of a discharge of used oil, appropriate immediate action shall be taken to protect human health and the environment, including notifying appropriate authorities, diking the discharge area, and remediating affected areas. Spill response actions shall follow chs. NR 700 to 736.

(b) If a discharge of used oil occurs, the person managing the oil shall do all of the following:

1. Comply with the requirements of s. 292.11, Stats., and chs. NR 158 and 705.

2. Telephone the division of emergency government.

Note: The division of emergency government's 24-hour toll-free number is 1-(800)943-0003.

3. Notify the department of natural resources.

4. If the discharge occurs in the course of transport, give notice as required by 49 CFR 171.15, October 1, 1993, to the national response center at (800) 424-8802.

5. If the discharge occurs in the course of transport, report in writing as required by 49 CFR 171.16, October 1, 1993, to the director, office of hazardous materials regulations, materials transportation bureau, U. S. DOT, Washington, D.C. 20590.

(c) A bulk shipment water transporter who has discharged used oil shall give the same notice as required by 33 CFR 153.203, July 1, 1993, for oil and hazardous substances.

Note: The publications containing the CFR references may be obtained from:

Superintendent of Documents
U.S. Government Printing Office
P.O. Box 371954
Pittsburgh, PA 15250-7954
(202) 783-3238

(d) The removal and subsequent containerization, transportation and management of spilled used oil shall be in compliance with the provisions of this chapter and chs. NR 500 to 520 and 600 to 685 applicable to solid and hazardous waste management.

(e) If the department determines that immediate removal of the used oil is necessary to protect human health or the environment, the department may authorize the removal of the waste by transporters who do not have transportation licenses or EPA identification numbers.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.07 Notification. (1) EXISTING ACTIVITIES.

Except as provided in sub. (5), any person subject to subchs. IV to VII shall, within 90 days of June 1, 1995 notify the department and EPA of the activities, unless that person has previously notified the EPA in compliance with the notification requirements of 42 USC 6930, or is otherwise exempted from this chapter under s. NR 590.04.

(2) NEW ACTIVITIES. Any person who will own or operate a facility subject to subchs. IV, V, VI or VII shall notify the department and EPA at least 30 days prior to the initiation of these activities, unless the person is otherwise exempted from this requirement under s. NR 590.04.

(3) SEPARATE FORMS REQUIRED. Separate notification forms shall be submitted to the department and EPA in accordance with sub. (1) or (2) for each transportation service, processing, re-refining, marketing and burning facility.

Note: In order to obtain an identification number, a notification form shall be filed in accordance with this section.

(4) CONTENTS OF NOTIFICATION FORM. The notification form shall be provided by the department upon request and shall contain all of the following information:

(a) The name of the transportation service or processing, marketing, re-refining or burning facility.

(b) The mailing address of the transportation service or facility.

(c) The location of the transportation service or facility.

(d) The name and telephone number of a responsible individual at the transportation service or facility who can be contacted for clarification of information submitted in the notification.

(e) The name of the operator and the owner of the transportation service or facility.

(f) The types of used oil activity conducted, such as:

1. The transportation, processing, re-refining, burning or marketing.

2. Used oil fuel activities.

(g) The type of combustion device for waste fuel burning.

(h) The mode of transportation.

(i) Whether this is the first, or a subsequent, notification of used oil or hazardous waste activities.

(j) Transportation services shall include the location of all transfer facilities at which used oil is stored.

(k) A certification stating: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant

penalties for submitting false information, including the possibility of fine and imprisonment." This certification shall be signed by the owner or operator, or an authorized representative, of the transportation service or facility.

Note: The notification form may be obtained from the Department of Natural Resources, P.O. Box 8094, Madison, Wisconsin 53708 at no charge.

Note: Generators and used oil collection centers, including used oil aggregation points and consumer used oil collection centers, are not required to notify.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.08 Used oil annual report. Any person who is subject to subch. V, VI or VII shall submit an annual report to the department on a form supplied by the department. All activities conducted at a facility covered by this chapter shall be reported in a single annual report. The annual report shall be submitted by March 1 for activities performed during the previous calendar year. The annual report shall contain all of the following information:

- (1) Name and address of the facility processing, re-refining, burning or marketing used oil.
- (2) Types of activities conducted at the facility.
- (3) Size or capacity of facility for each waste activity.
- (4) Contact person and phone number.
- (5) Calendar year on which each report is based.
- (6) Total amount of used oil managed on-site in gallons for the calendar year.
- (7) Total amount of used oil accepted from off-site transporters and facilities, in gallons, for the calendar year.
- (8) Total amount of used oil accepted from outside Wisconsin, in gallons, for the calendar year, including the amount from each jurisdiction.
- (9) Total amount of used oil, in gallons, managed on site by activity identified in sub. (2) during the calendar year.
- (10) Total gallons of used oil transported off-site during the calendar year; the name and transportation license number of each transporter used to transport used oil off-site; the type of each facility to which used oil was transported and the total gallons of used oil transported to each type of facility and activity conducted there.
- (11) A statement of how much of the used oil managed during the calendar year has been accounted for and an explanation of any shipments of used oil shipped off-site that are not accounted for.
- (12) Signature of the administrator or chief executive officer of the used oil facility.
- (13) Date of signature.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.09 Used oil specifications. (1) Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending or other treatment, is regulated under this chapter 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 ss. NR 590.07, 590.84 and 590.85 (2), the used oil is no longer regulated under this chapter.

(2) Generators, transporters, marketers, processors, re-refiners or burners may determine that used oil to be burned for energy recovery meets these specifications by performing analyses or by obtaining copies of analyses or other information documenting that the used oil meets these specifications.

Table 1 -

Used Oil Not Exceeding Any Specification Level Is Not Subject to This Chapter When Burned for Energy Recovery¹

Constituent/property	Allowable level
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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

Note: ¹The specification does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste [see s. NR 590.10].

²Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under s. NR 590.11. Such used oil is subject to ch. NR 665 and 40 CFR 266 Subpart H rather than this chapter when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

Note: Applicable standards for the burning of PCBs are imposed by s. NR 157.07 (2).

Note: On specification used oil must be managed in accordance with applicable department of commerce rules concerning its storage and burning.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.10 Mixtures of used oil and waste. (1) MIXING HAZARDOUS WASTE WITH USED OIL. Mixing hazardous waste with used oil constitutes treatment of hazardous waste except as allowed by s. NR 590.14 (2). No person may treat hazardous waste without an interim license issued under s. NR 680.22 or a license issued under s. NR 680.32.

(2) LISTED HAZARDOUS WASTE. Mixtures of used oil and hazardous waste that is listed in s. NR 605.09 are subject to regulation as hazardous waste under chs. NR 600 to 685, rather than as used oil under this chapter.

(3) CHARACTERISTIC HAZARDOUS WASTE. Mixtures of used oil and hazardous waste that exhibits one or more hazardous waste characteristic identified in s. NR 605.08 are subject to:

(a) Except as provided in par. (c), regulation as hazardous waste under chs. NR 600 to 685 rather than as used oil under this chapter, if the resultant mixture exhibits any characteristics of hazardous waste identified in s. NR 605.08; or

(b) Regulation as used oil under this chapter, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under s. NR 605.08.

(c) Regulation as used oil under this chapter, if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability and is not listed in s. NR 605.09, or is listed solely because it exhibits the characteristic of ignitability, provided that the mixture does not exhibit the characteristic of ignitability under s. NR 605.08 (2).

(4) VERY SMALL QUANTITY GENERATOR HAZARDOUS WASTE. Mixtures of used oil and waste which is hazardous solely because it exhibits the characteristic of ignitability, or is listed solely because it exhibits the characteristic of ignitability, from very small quantity generators regulated under s. NR 610.07 are subject to regulation as used oil under this chapter.

(5) MIXTURES OF USED OIL WITH NON-HAZARDOUS SOLID WASTES. Mixtures of used oil and non-hazardous solid waste are subject to regulation as used oil under this chapter provided the mixing is conducted in accordance with a solid waste processing license issued under ch. NR 502.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.11 Rebuttable presumption for used oil.

(1) Used oil containing greater than or equal to 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in s. NR 605.09. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste.

Note: An analytical method from SW-846, Edition III, is an example of a method that could be used to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in appendix IV of ch. NR 605.

Note: BPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. 202-783-3238 (document number 955-001-00000-1).

(a) The rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in s. NR 590.15 (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.

(b) The rebuttable presumption does not apply to 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) To ensure that used oil is not a hazardous waste under the rebuttable presumption, any person subject to subchs. IV to VI shall determine whether the total halogen content of used oil being managed is greater than or equal to, or below 1,000 ppm.

(3) Any person subject to subch. IV, V, or VI shall determine if the used oil contains greater than or equal to, or below 1,000 ppm total halogens by:

(a) Testing the used oil; or

(b) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

(4) A burner who receives used oil from a processor or refiner subject to regulation under subch. V, may use information provided by the processor or re-refiner.

(5) Records retention. Records of analyses conducted or information used to comply with subs. (1), (2), and (3) shall be maintained for at least 3 years.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

Subchapter II - Standards For Used Oil Generators

NR 590.12 Applicable generator provisions.

(1) Generators of used oil shall comply with this subchapter and subch. I.

(2) Used oil generators who conduct the following activities are subject to the requirements of other provisions of this chapter as indicated in pars. (a) to (d):

(a) Generators who transport used oil, except under the self-transport provisions of s. NR 590.15 (1) and (2), shall also comply with subch. IV.

(b) Except as provided in s. NR 590.50 (3), generators who process or re-refine used oil shall also comply with subch. V.

(c) Except as provided in s. NR 590.14, generators who burn off-specification used oil for energy recovery, shall also comply with subch. VI.

(d) 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 in s. NR 590.09 shall also comply with subch. VII.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.13 Used oil storage. Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures (SPCC) requirements in accordance with 40 CFR 112, July 1, 1993, in addition to the requirements of this chapter. If the owner or operator has already prepared an SPCC plan, then this plan shall only be amended to incorporate the requirements of this chapter. Used oil generators are also subject to the standards of ch. ILHR 10 for the storage of used oil in tanks and containers whether or not the used oil exhibits any characteristics of hazardous waste in addition to the requirements of this chapter.

Note: Used oil generators are also responsible for complying with the requirements of chs. NR 158 and NR 705.

(1) STORAGE UNITS. Used oil generators may not store used oil in units other than the following:

(a) Tanks subject to regulation under ch. ILHR 10, or

(b) Containers.

(2) CONDITION OF UNITS. Containers and tanks used to store used oil at generator facilities:

(a) Shall be in good condition, having no severe rusting, apparent structural defects or deterioration; and

(b) May not be leaking.

(3) AISLE SPACE. Container aisle space shall be a minimum of 3 feet in width to allow for observation of the condition of the containers and to allow for proper response in the event of a release.

(4) LABELS. (a) Containers and aboveground tanks used to store used oil at generator facilities shall be labeled or marked clearly with the words "Used Oil." No other substance may be placed in a tank so labeled.

(b) Fill pipes used to transfer used oil into underground storage tanks at generator facilities shall be labeled or marked clearly with the words "Used Oil."

(5) RESPONSE TO RELEASES. Upon detection of a release of used oil to the environment, a generator shall perform all of the following cleanup steps:

(a) Stop the release.

(b) Contain the released used oil.

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

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

(e) Comply with the requirements of s. NR 590.06 (2).

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.14 On-site burning in space heaters.

(1) Generators may burn used oil in used oil-fired space heaters provided that all of the following conditions are met:

(a) The heater burns only used oil that the owner or operator generates on-site or used oil received directly from consumer used oil generators.

Note: Used oil which has been collected from a consumer and aggregated by a second party is no longer consumer used oil once it is received by a third party.

(b) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour.

(c) The combustion gases from the heater are vented to the ambient air.

(d) The heater has been approved by department of commerce for the burning of used oil.

(e) The used oil burned in the heater is not hazardous waste according to the rebuttable presumption in s. NR 590.11 and does not exceed the specification levels for flash point and total halogens in s. NR 590.09.

(2) Very small quantity generators (VSQGs) subject to s. NR 610.07 may mix their used oil and waste which is hazardous solely because it exhibits the ignitability characteristic, such as ignitable-only mineral spirits, provided the resultant mixture does not exhibit the ignitability characteristic in s. NR 605.08 (2), for the purpose of burning the mixture in an on-site space heater provided the requirements of sub. (1) are met.

Note: Used oil which fails the rebuttable presumption test of s. NR 590.11 is presumed to be hazardous waste and is subject to regulation under chs. NR 600 to 685. Except as allowed in sub. (2), generators of used oil may not mix used oil and hazardous waste without a hazardous waste treatment license.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.15 Off-site shipments. Except as provided in this section, generators shall ensure that their used oil is transported only by transporters who have obtained EPA identification numbers and possess a solid waste transporter's license issued pursuant to s. NR 502.06.

(1) SELF-TRANSPORTATION OF SMALL AMOUNTS TO COLLECTION CENTERS. Generators may transport, without an EPA identification number, used oil that is generated at the generator's site and used oil collected from consumers to a used oil collection center provided all of the following conditions are met:

(a) The generator transports the used oil in a vehicle owned by the generator.

(b) The generator transports no more than 55 gallons of used oil at any time.

(c) The generator transports the used oil to a used oil collection center that is regulated under subch. III.

(2) SELF-TRANSPORTATION OF SMALL AMOUNTS TO AGGREGATION POINTS OWNED BY THE GENERATOR. Generators may transport, without an EPA identification number, used oil that is generated at the generator's site to an aggregation point provided all of the following conditions are met:

(a) The generator transports the used oil in a vehicle owned by the generator.

(b) The generator transports no more than 55 gallons of used oil at any time.

(c) The generator transports the used oil to an aggregation point that is owned or operated by the same generator.

(3) TOLLING ARRANGEMENTS. 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 shall indicate all of the following:

(a) The type of used oil and the frequency of shipments.

(b) That reclaimed oil will be returned to the generator.

(c) 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.

(d) That the vehicle has a solid waste transportation license issued pursuant to s. NR 502.06.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

Subchapter III - Standards For Used Oil Collection Centers And Aggregation Points

NR 590.20 Used oil collection centers. (1) APPLICATION. Owners and operators of used oil collection centers, consumer used oil collection centers and generator used oil aggregation points shall comply with subchs. I and II and this subchapter.

(2) EXEMPTIONS. (a) Owners and operators of generator used oil aggregation points are exempt from the following:

1. The minimum standards requirements in s. NR 590.22 provided used oil is not accepted from consumers.

2. The plan of operation requirements in s. NR 590.23.

(b) Owners and operators of used oil collection centers that do not accept used oil from consumers are exempt from the plan of operation requirements in s. NR 590.23.

Note: Used oil in shipments in quantities greater than 55 gallons may only be transported by a licensed solid waste transporter in accordance with subch. IV. As stated in s. NR 590.35 (1), a used oil transporter may only ship used oil to another transporter, a processor or re-refiner, an off-specification burner, or an on-specification burner.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.21 Municipal and retail engine waste oil collection centers. (1) ENGINE WASTE OIL COLLECTION CENTERS MAINTAINED BY RETAIL SALES ESTABLISHMENTS. (a) All retail sales establishments in the state shall either:

1. Establish and maintain a used oil collection center and post at least one sign at the location of the sale of automotive engine oil to consumers which contains wording similar to: "Engine oil collection center. Please return your used oil here."; or

2. Post at least one sign at the location of the sale of automotive engine oil to consumers which contains wording similar to: "Engine waste oil can be recycled. Please return your oil to an engine waste oil storage center. The nearest center is located _____ and is open _____" and

which describes the location and days and hours of operation of the nearest engine waste oil collection center.

(b) A retail sales establishment that maintains or proposes to establish an engine waste oil collection center which complies with this chapter is exempt from the requirements of ss. 289.35, 291.21 to 291.25, Stats., and rules promulgated under those sections with respect to that facility.

(2) ENGINE WASTE OIL COLLECTION CENTERS MAINTAINED BY MUNICIPALITIES. A city, county, village or town located in a county with a population of 50,000 or more shall establish and maintain, or otherwise provide for, adequate engine waste oil collection if such facilities do not exist. A county with a population of less than 50,000 shall establish and maintain, or otherwise provide for, adequate engine waste oil collection and storage centers if such facilities do not exist. As used in this subsection, adequate engine waste oil collection centers means at least the minimum number of separate engine waste oil collection and storage facilities as set forth in pars. (a) and (b), each with a capacity of at least 250 gallons and each located so as to be accessible to the public. A tank is considered accessible to the public if its location is reasonably convenient for use by the residents of the municipality in question and if that location is indicated by means of adequate signs. A municipal engine waste oil collection center is a consumer used oil collection center.

(a) The minimum number of engine waste oil collection centers for a city, village, or town located in a county with a population of 50,000 or more is:

1. Zero, if the population is less than 3,500.

2. One, if the population is at least 3,500 but less than 25,000.

3. Two, if the population is at least 25,000 but less than 100,000.

4. Three, if the population is at least 100,000 plus one additional center for each additional 100,000 of population.

(b) The minimum number of engine waste oil collection centers for a county with a population under 50,000 is one.

(c) A municipality which submits to the department, prior to the construction of a new center, a plan of operation that meets the requirements of s. NR 590.23 and which constructs and maintains, or provides for, an engine waste oil collection center that complies with the applicable standards in s. NR 590.22 is exempt from the requirements of ss. 289.31, 289.35 and 291.21 to 291.25, Stats., and rules promulgated under those sections with respect to that center.

(d) If adequate used oil collection centers already exist, a municipality is not required to establish additional centers. To be considered adequate, the centers shall be in compliance with applicable requirements of this chapter. The centers may be publicly or privately owned and operated.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.22 Minimum standards for used oil collection centers. (1) LOCATIONAL CRITERIA. (a) A used oil collection center may not be located in a wetland or a critical habitat area.

(b) The siting of a used oil collection center shall be done in accordance with all applicable local, state or federal laws.

(2) DESIGN STANDARDS. (a) *General standards.* The following standards are applicable to used oil collection centers.

Note: These standards are in addition to those found in ch. ILHR 10.

1. Used oil collection centers shall be designed and maintained so that they are leak-proof.

2. Used oil collection centers shall be permanently located, stationary or mobile structures properly anchored or otherwise designed and constructed to prevent any spillage of oil.

3. Owners and operators of all used oil collection centers shall have in place a spill control plan adequate to ensure that no spillage or leakage from any engine used oil or used oil tank be released to the environment.

4. Tanks used for used oil collection or storage or both shall have spill containment, as in ch. ILHR 10, a level gauge, or some other adequate means for checking the level of oil in the tank, have adequate venting and an exterior constructed of noncorrosive materials, or be treated so as to make the exterior materials noncorrosive. Such tanks shall be of any shape or type consistent with sound engineering design. Each storage area shall have a containment system designed and constructed to have a continuous base which is free of cracks or gaps and is impervious to the material to be stored, and will contain any discharges, leaks or spills and precipitation until the collected material is detected and can be removed. The base of the storage areas shall be sloped or the containment system shall be otherwise designed and operated to drain and remove liquids resulting from discharges, leaks, spills and any precipitation, unless the tanks are elevated or are otherwise protected from contact with accumulated liquids. The storage areas shall have a secondary containment structure with a minimum capacity equal to 125% of the contents of the largest tank.

5. Used oil collection centers shall be installed and maintained in accordance with sound engineering practice.

6. A collection center may serve as both a used oil collection center and a used oil storage facility.

7. A sign shall be located at the collection center which contains wording: "Engine waste oil (or used oil) collection only. Depositing other material is prohibited. No smoking." The sign shall also give information regarding proper disposal of gasoline and other flammable liquids.

(b) *Above-ground tanks.* The standards found in ch. ILHR 10 apply to the design and installation of above-ground tanks.

(c) *Underground tanks.* The standards found in ch. ILHR 10 apply to the design and installation of underground tanks.

(3) **OPERATIONAL REQUIREMENTS.** The following operational requirements apply to all used oil collection centers:

(a) The owner or operator of the center shall insure that all containment devices, including tanks, pipes and containers used for the collection or storage of used oil, are inspected at least once a week.

(b) The owner or operator shall insure that the tank level is checked at least once a week, by the use of either a level gauge or some other means of checking the level of oil in the tank, and shall ensure that the tank is emptied before it becomes full, to avoid any overfilling and spillage.

(c) Any deterioration of a containment device observed during the weekly inspection shall be noted on the inspection log and remedied on a schedule that ensures that the device will not leak or rupture.

(d) Upon detection of a release of used oil to the environment, the owner or operator of a collection center shall perform all of the following cleanup 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.
5. Comply with the requirements of s. NR 590.06 (2).

(e) The owner or operator of the center shall comply with all applicable environmental protection statutes and administrative rules, including s. 292.11, Stats., and ch. NR 158 or 705.

(f) The owner or operator shall comply with all applicable safety regulations.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.23 Plans of operation. (1) Owners and operators of used oil collection centers that accept used oil from consumers shall prepare a plan of operation for the collection center.

(2) A plan of operation shall contain all of the following information:

(a) The name of the municipality in which the center is located.

(b) The population of the municipality and, where the municipality is a city, village, or town, the population of the county in which the municipality is located.

(c) The name of the owner and the name of the operator of the collection center.

(d) A general description of the collection center or proposed collection center, including the type of above-ground or underground tanks which are being used or are proposed to be used, and the capacity of each tank and container storage area, a plan sheet showing tank and container configuration and minimum container aisle space.

(e) A statement that tanks have been evaluated for compliance with ch. ILHR 10 and that all ch. ILHR 10 requirements are met.

(f) A description of what is done or is proposed to be done with the used oil, including the name and address of any recycling facility or transportation service that is to be used.

(g) A map of the municipality indicating the location of the collection center or proposed center and a section, quartersection description of the facility.

(3) The plan of operation shall be maintained on-site and be provided to the department in the event of an inspection.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

Subchapter IV - Standards For Used Oil Transporters And Transfer Facilities

NR 590.30 Applicability. This subchapter applies to all used oil transporters, except as provided in subs. (1) to (4):

(1) This subchapter does not apply to on-site transportation.

(2) This subchapter does not apply to generators who transport used oil in shipments of 55 gallons or less from the generator to a used oil collection center as specified in s. NR 590.15 (1).

(3) This subchapter does not apply to generators who transport used oil in shipments of 55 gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in s. NR 590.15 (2).

(4) This subchapter does not apply to transportation of used oil by consumers to a regulated used oil generator, collection center, aggregation point, processor or re-refiner, or burner subject to this chapter.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.31 Imports and exports. Transporters who import used oil from abroad or export used oil outside of Wisconsin are subject to the requirements of this subchapter from the time the used oil enters and until the time it exits Wisconsin. Transporters who import used oil from abroad or export used oil outside of the United States are subject to the requirements of 40 CFR Part 279 from the time the used oil enters and until the time it exits the United States.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.32 Trucks used to transport hazardous waste. Trucks previously used to transport hazardous waste shall be emptied as described in s. NR 605.06 prior to transporting used oil. Used oil mixed with the hazardous waste in a truck shall be managed as hazardous waste unless, under the provisions of s. NR 590.10, the mixture of hazardous waste and used oil is determined not to be hazardous waste.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.33 Other applicable provisions. Used oil transporters who conduct the following activities are also subject to other applicable provisions of this chapter as indicated in subs. (1) to (4):

(1) Transporters who generate used oil shall also comply with the requirements for used oil generators found in subch. II;

(2) Transporters who process or re-refine used oil, except as provided in s. NR 590.31, shall also comply with the requirements for processors and re-refiners found in subch. V;

(3) Transporters who burn off-specification used oil for energy recovery shall also comply with the requirements for burners of off-specification used oil found in subch. VI.

(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 s. NR 590.09 shall also comply with subch. VII.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.34 Restrictions on transporters who are not also processors or re-refiners. (1) Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in sub. (2), used oil transporters may not process used oil unless they also comply with the requirements for processors and re-refiners in subch. V.

(2) 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.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.35 Used oil transportation. (1) DELIVERIES. A used oil transporter shall deliver all used oil received to one of the following:

(a) Another used oil transporter, provided that the transporter has obtained an EPA identification number.

(b) A used oil processing or re-refining facility who has obtained an EPA identification number.

(c) An off-specification used oil burner facility who has obtained an EPA identification number.

(d) An on-specification used oil burner facility.

(2) DOT REQUIREMENTS. Used oil transporters shall comply with all applicable requirements under the U.S. department of transportation regulations in 49 CFR parts 171 to 180. Persons transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8 shall comply with all applicable regulations in 49 CFR parts 171 to 180.

(3) USED OIL DISCHARGES. In the event of a discharge of used oil during transportation, the transporter shall take appropriate immediate action to protect human health and the environment, including notifying appropriate authorities, diking the discharge area and comply with s. NR 590.06 (2).

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.36 Used oil storage at transfer facilities. Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures requirements in accordance with 40 CFR 112, July 1, 1993, in addition to the requirements of this subchapter. If the owner or operator has already prepared an SPCC plan, then this plan shall only be amended to incorporate the requirements of this chapter. Used oil transporters are also subject to the requirements of ch. ILHR 10 for the storage of used oil in tanks and containers, regardless of whether or not the used oil exhibits the characteristics of hazardous waste in addition to the requirements of this chapter.

Note: Used oil transporters are also responsible for complying with the applicable provisions of chs. NR 158 and 705.

(1) APPLICABILITY. This section applies to 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 24 hours

during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days are subject to regulation as a processor or re-refiner under subch. V.

(2) STORAGE UNITS. Owners or operators of used oil transfer facilities may not store used oil in units other than:

(a) Tanks subject to regulation under ch. ILHR 10, or

(b) Containers meeting U.S. DOT packaging requirements in 49 CFR Parts 173 and 178.

(3) CONDITION OF UNITS. Containers and aboveground tanks used to store used oil at transfer facilities:

(a) Shall be in good condition; and

(b) May not be leaking.

(4) SECONDARY CONTAINMENT FOR CONTAINERS. Containers used to store used oil at transfer facilities shall be equipped with a secondary containment system.

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

1. Dikes, berms or retaining walls and a floor that covers the entire area within the dikes, berms or retaining walls; or

2. An equivalent secondary containment system.

(b) The entire containment system, including walls and floors, shall 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.

(5) SECONDARY CONTAINMENT FOR ABOVEGROUND TANKS. Existing aboveground tanks used to store used oil at transfer facilities shall be equipped with a secondary containment system within 6 months of June 1, 1995. New above ground tanks shall be equipped with secondary containment prior to accepting any used oil.

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

1. Dikes, berms or retaining walls and a floor that covers the entire area within the dike, berm or retaining wall; or

2. An equivalent secondary containment system.

(b) The entire containment system, including walls and floors, shall 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.

(6) LABELS. (a) Containers and aboveground tanks used to store used oil at transfer facilities shall be labeled or marked clearly with the words "Used Oil." No other substance may be placed in a tank so labeled.

(b) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities shall be labeled or marked clearly with the words "Used Oil."

(7) RESPONSE TO RELEASES. Upon detection of a release of used oil to the environment, the owner or operator of a transfer facility shall perform all of the following cleanup steps:

(a) Stop the release.

(b) Contain the released used oil.

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

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

(e) Comply with the requirements of s. NR 590.06 (2).

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.37 Tracking. (1) ACCEPTANCE. Used oil transporters shall keep a record of each used oil shipment accepted for transport. Records for each shipment shall include all of the following:

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

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

(c) The quantity of used oil accepted.

(d) The date of acceptance.

(e) 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.

(2) **DELIVERIES.** Used oil transporters shall keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor or re-refiner, or disposal facility. Records of each delivery shall include:

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

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

(c) The quantity of used oil delivered.

(d) The date of delivery.

(e) The signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.

(3) **EXPORTS OF USED OIL.** Used oil transporters shall maintain the records described in sub. (2) for each shipment of used oil exported to any foreign country.

(4) **RECORDS RETENTION.** The records described in subs. (1) to (3) shall be maintained for at least 3 years.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.38 Management of residues. Transporters who generate residues from the storage or transport of used oil shall manage the residues as specified in s. NR 590.04 (1) (b).

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

Subchapter V - Standards For Used Oil Processors And Re-refiners

NR 590.50 Applicability. This subchapter applies to owners and operators of facilities that process used oil. This subchapter does not apply to:

(1) Transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in s. NR 590.34;

(2) Burners that conduct incidental processing operations that occur during the normal course of used oil management prior to burning as provided in s. NR 590.70 (2); or

(3) Generators who perform any of the following activities, provided 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:

(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 pursuant to section 402 or section 307 (b) of the Clean Water Act or other applicable federal or state regulations governing the management 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 excess oil to the extent possible.

(e) Filtering, separating or otherwise reconditioning used oil before burning in a space heater pursuant to s. NR 590.14.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.51 Other applicable provisions. Used oil processors or re-refiners who conduct the following activities are

also subject to the requirements of other applicable provisions of this chapter as follows:

(1) Processors or re-refiners who generate used oil shall also comply with subch. II;

(2) Processors or re-refiners who transport used oil shall also comply with subch. IV;

(3) Except when used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing; processors or re-refiners who burn off-specification used oil for energy recovery shall also comply with subch. VI; and

(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 s. NR 590.09 shall also comply with subch. VII.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.52 General facility standards. (1) **PREPAREDNESS AND PREVENTION.** Owners and operators of used oil processors and re-refiners facilities shall comply with all of the following requirements:

(a) *Maintenance and operation of facility.* Facilities shall be maintained and operated to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of used oil to air, soil or surface water which could threaten human health or the environment.

(b) *Required equipment.* All facilities shall be equipped with all of the following equipment, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment:

1. An internal communications or alarm system capable of providing immediate emergency instruction, by voice or signal, to facility personnel.

2. A device, such as a telephone, 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.

3. 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.

4. Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers or water spray systems.

(c) *Testing and maintenance of equipment.* All facility communications or alarm systems, fire protection equipment, spill control equipment and decontamination equipment, where required, shall be tested and maintained as necessary to assure its proper operation in time of emergency.

(d) *Access to communications or alarm system.* 1. Whenever used oil is being poured, mixed, spread or otherwise handled, all personnel involved in the operation shall have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employe, unless such a device is not required by par. (b).

2. If there is ever just one employe on the premises while the facility is operating, the employe shall 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 by par. (b).

(e) *Required aisle space.* The owner or operator shall maintain aisle space of at least 3 feet in width 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.

(f) *Arrangements with local authorities.* 1. The owner or operator shall 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:

a. Arrangements to familiarize police, fire departments and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility and possible evacuation routes;

b. Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

c. Agreements with state emergency response teams, emergency response contractors and equipment suppliers; and

d. Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses which could result from fires, explosions or releases at the facility.

2. Where state or local authorities decline to enter into such arrangements, the owner or operator shall document the refusal in the operating record.

(2) **CONTINGENCY PLAN AND EMERGENCY PROCEDURES.** Owners and operators of used oil processors and re-refiners facilities shall comply with all of the following requirements:

(a) *Purpose and implementation of contingency plan.* 1. Each owner or operator shall have a contingency plan for the facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions or any unplanned sudden or non-sudden release of used oil to air, soil or surface water.

2. The provisions of the plan shall be carried out immediately whenever there is a fire, explosion or release of used oil which could threaten human health or the environment.

(b) *Content of contingency plan.* 1. The contingency plan shall describe the actions facility personnel shall take to comply with pars. (a) and (f) in response to fires, explosions or any unplanned sudden or non-sudden release of used oil to air, soil or surface water at the facility.

2. If the owner or operator has already prepared a spill prevention, control and countermeasures (SPCC) plan in accordance with 40 CFR 112, July 1, 1993, this plan need only be amended to incorporate used oil management provisions that are sufficient to comply with the requirements of this chapter.

3. The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services, pursuant to sub. (1) (f).

4. The plan shall list the name, address and phone number, office and home, of every person qualified to act as emergency coordinator, and this list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates.

5. The plan shall include a list of all emergency equipment at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems, internal and external, and decontamination equipment, where this equipment is required. This list shall be kept up to date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities.

6. The plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan shall describe 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.

(c) *Copies of contingency plan.* A copy of the contingency plan and all revisions to the plan shall be:

1. Maintained at the facility; and

2. 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.

(d) *Amendment of contingency plan.* The contingency plan shall be reviewed, and immediately amended, if necessary, whenever any of the following events occur:

1. Applicable regulations are revised.

2. The plan fails in an emergency.

3. The facility changes, in its design, construction, operation, maintenance or other circumstances, in a way that materially increases the potential for fires, explosions or releases of used oil, or changes the response necessary in an emergency.

4. The list of emergency coordinators changes.

5. The list of emergency equipment changes.

(e) *Emergency coordinator.* At all times, there shall be at least one employee either on the facility premises or on call, 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 shall be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan.

Note: The emergency coordinator's responsibilities are more fully spelled out in par. (f). 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.

(f) *Emergency procedures.* 1. Whenever there is an imminent or actual emergency situation, the emergency coordinator, or the designee when the emergency coordinator is on call, shall immediately:

a. Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

b. Notify appropriate state or local agencies with designated response roles if their help is needed.

2. Whenever there is a release, fire or explosion, the emergency coordinator shall immediately identify the character, exact source, amount and areal extent of any released materials. The coordinator may do this by observation or review of facility records of manifests and, if necessary, by chemical analysis.

3. Concurrently, the emergency coordinator shall assess possible hazards to human health or the environment that may result from the release, fire or explosion. This assessment shall consider both direct and indirect effects of the release, fire or explosion, including the effects of any toxic, irritating or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions.

4. If the emergency coordinator determines that the facility has had a release, fire or explosion which could threaten human health, or the environment, outside the facility, the coordinator shall comply with the requirements of s. NR 590.06 (2).

5. If the assessment of the emergency coordinator indicated that evacuation of local areas may be advisable, the coordinator shall immediately notify appropriate local authorities. The coordinator shall be available to help appropriate officials decide whether local areas should be evacuated.

6. During an emergency, the emergency coordinator shall 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 shall include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

7. If the facility stops operation in response to a fire, explosion or release, the emergency coordinator shall monitor for leaks, pressure buildup, gas generation or ruptures in valves, pipes or other equipment, wherever this is appropriate.

8. Immediately after an emergency, the emergency coordinator shall 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.

9. The emergency coordinator shall ensure that, in the affected areas of the facility:

a. No used oil that may be incompatible with the released material is recycled, treated, stored or disposed of until cleanup procedures are completed; and

b. All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

10. The owner or operator shall notify the department, and appropriate local authorities that the facility is in compliance with subd. 9, before operations are resumed in the affected areas of the facility.

11. The owner or operator shall note in the operating record the time, date and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he or she shall submit a written report on the incident to the department. The report shall include all of the following:

a. Name, address and telephone number of the owner or operator.

b. Name, address and telephone number of the facility.

c. Date, time and type of incident (e.g., fire, explosion).

d. Name and quantity of materials involved.

e. The extent of injuries, if any.

f. An assessment of actual or potential hazards to human health or the environment, where applicable.

g. Estimated quantity and disposition of recovered material that resulted from the incident.

h. Demonstrate compliance with s. NR 590.06.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.53 Used oil management. Used oil processors or re-refiners are subject to all applicable spill prevention, control and countermeasures (SPCC) requirements in accordance with 40 CFR 112, July 1, 1993, in addition to the requirements of this subchapter. If the owner or operator has already prepared an SPCC plan, then this plan shall only be amended to incorporate the requirements of this chapter. In addition to the requirements of this chapter, used oil processors or re-refiners are also subject to the requirements of ch. ILHR 10 for the storage of used oil in tanks and containers, regardless of whether or not the used oil exhibits the characteristics of hazardous waste.

Note: Used oil processors or re-refiners are also responsible for complying with the applicable provisions of chs. NR 158 and 705.

(1) **MANAGEMENT UNITS.** Used oil processors or re-refiners may not store used oil in units other than:

(a) Tanks subject to regulation under ch. ILHR 10, or

(b) Containers meeting U.S. DOT packaging requirements in 49 CFR Parts 173 and 178.

(2) **CONDITION OF UNITS.** (a) Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities:

1. Shall be in good condition; and
2. May not be leaking.

(3) **AISLE SPACE.** Container aisle space shall be a minimum of 3 feet in width to observe the condition of the containers and to allow for proper response action in the event of a release.

(4) **SECONDARY CONTAINMENT FOR CONTAINERS.** Containers used to store or process used oil at processing and re-refining facilities shall be equipped with a secondary containment system.

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

1. Dikes, berms or retaining walls and a floor that covers the entire area within the dike, berm or retaining wall; or

2. An equivalent containment system.

(b) The entire containment system, including walls and floor, shall 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.

(5) **SECONDARY CONTAINMENT FOR TANKS.** Existing above-ground tanks used to store or process used oil at processing and re-refining facilities shall be equipped with a secondary containment system within 6 months of June 1, 1995. New above ground tanks shall be equipped with secondary containment prior to accepting any used oil.

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

1. Dikes, berms or retaining walls and a floor that covers the entire area within the dike, berm or retaining wall; or

2. An equivalent containment system.

(b) The entire containment system, including walls and floors, shall 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.

(6) **LABELS.** (a) Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities shall be labeled or marked clearly with the words "Used Oil." No other substance may be placed in a tank so labelled.

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

(7) **RESPONSE TO RELEASES.** Upon detection of a release of used oil to the environment, an owner or operator shall perform all of the following cleanup steps:

(a) Stop the release.

(b) Contain the released used oil.

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

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

(e) Comply with the requirements of s. NR 590.06 (2).

(8) **CLOSURE.** (a) *Aboveground tanks.* Owners and operators who store or process used oil in aboveground tanks shall comply with the following requirements:

1. At closure of a tank system, the owner or operator shall remove or decontaminate used oil 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 chapter NR 605 and this chapter.

Note: Underground storage tanks shall comply with the requirements of ch. NR 705 as well as the applicable portions of chs. NR 700 to 736 when closing the underground tanks.

2. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in subd. 1., then the owner or operator shall close the tank system and perform long term care in accordance with the closure and long term care requirements that apply to hazardous waste landfills in ss. NR 660.15 to 660.17.

(b) *Containers.* Owners and operators who store used oil in containers shall comply with the following requirements:

1. At closure, containers holding used oils or residues of used oil shall be removed from the site;

2. The owner or operator shall 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 ch. NR 605 and this chapter.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.54 Analysis plan. Owners or operators of used oil processing and re-refining facilities shall develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of s. NR 590.11 and, if applicable, s. NR 590.83. The owner or operator shall keep the plan at the facility.

(1) **REBUTTABLE PRESUMPTION FOR USED OIL IN S. NR 590.11.** At a minimum, the plan shall specify all of the following:

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

(b) If sample analyses are used to make this determination:

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

a. One of the sampling methods in appendix I of ch. NR 605; or

b. A method shown to be equivalent under 40 CFR 260.20 and 260.21, July 1, 1993;

2. The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

3. The methods used to analyze used oil for the parameters specified in s. NR 590.11; and

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

(2) **ON-SPECIFICATION USED OIL FUEL IN S. NR 590.84.** At a minimum, the plan shall specify all of the following if s. NR 590.84 is applicable:

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

(b) If sample analyses are used to make this determination:

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

a. One of the sampling methods in appendix I of ch. NR 605; or

b. A method shown to be equivalent under 40 CFR 260.20 and 260.21, July 1, 1993;

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

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

4. The methods used to analyze used oil for the parameters specified in s. NR 590.84.

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

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.55 Tracking. (1) **ACCEPTANCE.** Used oil processors or re-refiners shall keep a record of each used oil shipment accepted for processing and re-refining. These records may take the form of a log, invoice, bill of lading or other shipping documents. Records for each shipment shall include all of the following information:

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

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

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

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

(e) The quantity of used oil accepted.

(f) The date of acceptance.

(2) **DELIVERY.** Used oil processors or re-refiners shall keep a record of each shipment of used oil that is shipped to a used oil burner, processor or re-refiner. These records may take the form of a log, invoice, bill of lading or other shipping documents. Records for each shipment shall include all of the following information:

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

(b) The name and address of the burner, processor or re-refiner or disposal facility who will receive the used oil.

(c) The EPA identification number of the transporter who delivers the used oil to the burner, processor or re-refiner or disposal facility.

(d) The EPA identification number of the burner, processor or re-refiner, or disposal facility who will receive the used oil.

(e) The quantity of used oil shipped.

(f) The date of shipment.

(3) **RECORDS RETENTION.** The records described in subs. (1) and (2) shall be maintained for at least 3 years.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.56 Operating record and reporting.

(1) **OPERATING RECORD.** (a) The owner or operator shall keep a written operating record at the facility.

(b) The following information shall be 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 s. NR 590.54; and

2. Summary reports and details of all incidents that require implementation of the contingency plan as specified in s. NR 590.52 (2).

(2) **REPORTING.** A used oil processor or re-refiner shall report to the department, on an annual basis, by March 1 of the following year, all of the information required in s. NR 590.08.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.57 Off-site shipments of used oil. Used oil processors or re-refiners who initiate shipments of used oil off-site shall ship the used oil using a used oil transporter who has obtained an EPA identification number and a solid waste transportation license.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.58 Management of residues. Owners and operators who generate residues from the storage, processing, or re-refining of used oil shall manage the residues as specified in s. NR 590.04 (1) (b).

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

Subchapter VI—Standards For Burning Off-Specification Used Oil For Energy Recovery

NR 590.70 Applicability. This subchapter apply to used oil burners except as specified in subs. (1), (2) and (3). Facilities burning used oil for energy recovery under the following conditions are not subject to this subchapter:

(1) The used oil is burned by the generator in an on-site space heater under the provisions of s. NR 590.14;

(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; or

(3) The used oil meets the used oil fuel specifications of s. NR 590.09 and the burner complies with the requirements of subch. VII.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.71 Other applicable provisions. Used oil burners who conduct the following activities are also subject to the requirements of other applicable provisions of this chapter as follows:

(1) Burners who generate used oil shall also comply with subch. II;

(2) Burners who transport used oil shall also comply with subch. IV;

(3) Burners who process or re-refine used oil shall also comply with subch. V;

(4) 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 specifications in s. NR 590.09 shall also comply with subch. VII.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.72 Restrictions on burning. Off-specification used oil may be burned for energy recovery in only the following devices:

(1) Industrial furnaces identified in s. NR 590.03.

(2) Boilers, as defined in s. NR 590.03, 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 s. NR 590.14.

(3) Hazardous waste incinerators subject to regulation under ch. NR 665 or 40 CFR Part 266 Subpart H.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.73 Used oil storage. Used oil burners are subject to all applicable spill prevention, control and countermeasures (SPCC) requirements in accordance with 40 CFR 112, July 1, 1993, in addition to the requirements of this subchapter. If the owner or operator has already prepared an SPCC plan, then this plan shall only be amended to incorporate the requirements of this chapter. In addition to the requirements of this chapter, used oil burners are also subject to the requirements of ch. ILHR 10 for the storage of used oil in tanks and containers, regardless of whether or not the used oil exhibits the characteristics of hazardous waste.

Note: Used oil burners are also responsible for complying with the applicable provisions of chs. NR 158 and 705.

(1) **STORAGE UNITS.** Used oil burners may not store used oil in units other than:

(a) Tanks subject to regulation under ch. ILHR 10, or

(b) Containers meeting U.S. DOT packaging requirements in 49 CFR Parts 173 and 178.

(2) **CONDITION OF UNITS.** Containers and aboveground tanks used to store oil at burner facilities:

(a) Shall be in good condition.

(b) May not be leaking.

(3) **AISLE SPACE.** Container aisle space shall be a minimum of 3 feet in width to observe the condition of the containers and to allow for proper response in the event of a release.

(4) **SECONDARY CONTAINMENT FOR CONTAINERS.** Containers used to store used oil at burner facilities shall be equipped with a secondary containment system.

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

1. Dikes, berms or retaining walls and a floor that covers the entire area within the dike, berm or retaining wall; or

2. An equivalent containment system.

(b) The entire containment system, including walls and floor, shall 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.

(5) **SECONDARY CONTAINMENT FOR TANKS.** Existing tanks used to store used oil at transfer facilities shall be equipped with a secondary containment system within 6 months of June 1, 1995. New above ground tanks shall be equipped with secondary containment prior to accepting any used oil.

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

1. Dikes, berms or retaining walls and a floor that covers the entire area within the dike, berm or retaining wall; or

2. An equivalent containment system.

(b) The entire containment system, including walls and floors, shall 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.

(6) **LABELS.** (a) Containers and aboveground tanks used to store used oil at burner facilities shall be labeled or marked clearly with the words "Used Oil." No other substance may be placed in a tank or container so labeled.

(b) Fill pipes used to transfer used oil into underground storage tanks at burner facilities shall be labeled or marked clearly with the words "Used Oil."

(7) **RESPONSE TO RELEASES.** Upon detection of a release of used oil to the environment a burner shall perform all of the following:

(a) Stop the release.

(b) Contain the released used oil.

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

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

(e) Comply with the requirements of s. NR 590.06 (2).

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.74 Tracking. (1) **ACCEPTANCE.** Used oil burners shall keep a record of each used oil shipment accepted for burning. These records may take the form of a log, invoice, bill of lading or other shipping documents. Records for each shipment shall include all of 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 or re-refiner from whom the used oil was sent to the burner.

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

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

(e) The quantity of used oil accepted.

(f) The date of acceptance.

(2) **RECORDS RETENTION.** The records described in sub. (1) shall be maintained for at least 3 years.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.75 Notices. (1) **CERTIFICATION.** Before a burner accepts the first shipment of off-specification used oil fuel from

a generator, transporter, or processor or re-refiner, the burner shall provide to the generator, transporter, or processor or re-refiner a one-time written and signed notice certifying that:

(a) The burner has notified EPA stating the location and general description of his or her used oil management activities; and

(b) The burner will burn the used oil only in a combustion device identified in s. NR 590.72.

(2) **CERTIFICATION RETENTION.** The certification described in sub. (1) shall be maintained for 3 years from the date the burner last receives shipment of off-specification used oil from that generator, transporter, or processor or re-refiner.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.76 Management of residues. Burners who generate residues from the storage or burning of used oil shall manage the residues as specified in s. NR 590.04 (1) (b).

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

Subchapter VII - Standards For Used Oil Fuel Marketers

NR 590.80 Applicability. This subchapter applies to 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; or

(2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in s. NR 590.09.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.81 Prohibitions. 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 a combustion device identified in s. NR 590.72.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.82 Exemptions. The following persons are not marketers subject to this subchapter:

(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 or 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 processor or re-refiners who incidentally burn used oil are not marketers subject to this subchapter.

(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 s. NR 590.09.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.83 Other applicable provisions. Any person subject to the requirements of this subchapter shall also comply with one of the following:

(1) Subchapter II - Standards for Used Oil Generators.

(2) Subchapter IV - Standards for Used Oil Transporters and Transfer Facilities.

(3) Subchapter V - Standards for Used Oil Processors and Re-refiners.

(4) Subchapter VI - Standards for Used Oil Burners who Burn Off-Specification Used Oil for Energy Recovery.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.84 On-specification used oil fuel. (1) **ANALYSIS OF USED OIL FUEL.** A generator, collection center, transporter,

processor or re-refiner, or burner may determine that used oil that is to be burned for energy recovery meets the fuel specifications of s. NR 590.09 by performing analyses or obtaining copies of analyses or other information documenting that the used oil fuel meets the specifications.

(2) **RECORDS RETENTION.** 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 specifications for used oil fuel under s. NR 590.09, shall keep copies of analyses of the used oil, or other information used to make the determination, for 3 years.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.85 Tracking. (1) **OFF-SPECIFICATION USED OIL DELIVERY.** Any used oil marketer who directs a shipment of off-specification used oil to a burner shall keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, bill of lading or other shipping documents. Records for each shipment shall include all of the following information:

(a) The name and address of the transporter who delivers the used oil to the burner.

(b) The name and address of the burner who will receive the used oil.

(c) The EPA identification number of the transporter who delivers the used oil to the burner.

(d) The EPA identification number of the burner.

(e) The quantity of used oil shipped.

(f) The date of shipment.

(2) **ON-SPECIFICATION USED OIL DELIVERY.** A generator, collection center, 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 s. NR 590.09 shall keep a record of each shipment of used oil to an on-specification used oil burner. Records for each shipment shall include the following information:

(a) The name and address of the facility receiving the shipment;

(b) The quantity of used oil fuel delivered;

(c) The date of shipment or delivery; and

(d) 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 s. NR 590.84 (1).

(3) **RECORDS RETENTION.** The records described in subs. (1) and (2) shall be maintained for at least 3 years.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.86 Notices. (1) **CERTIFICATION.** 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 owner or operator shall obtain a one-time written and signed notice from the burner certifying that:

(a) The burner has notified EPA stating the location and general description of used oil management activities; and

(b) The burner will burn the off-specification used oil only in a combustion device identified in s. NR 590.72.

(2) **CERTIFICATION RETENTION.** The certification described in sub. (1) shall be maintained for 3 years from the date the last shipment of off-specification used oil is shipped to the burner.

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.

NR 590.87 Management of residues. Marketers who generate residues from the storage or burning of used oil shall manage the residues as specified in s. NR 590.04 (1) (b).

History: Cr. Register, May, 1995, No. 473, eff. 6-1-95.