

New Hampshire Summary (DRAFT NOTES FOR INTERNAL USE)

Friday, April 23, 2009

Rules

- The “used oil specific” rules are embedded within the Hazardous Waste Rules (Env-Hw 100-1000). In particular, see Part Env-Hw 807 (with exemptions found under Part Env-Hw 401).
- In addition to the *used oil specific* rules, other more detailed rules also apply to storage and/or certain handling activities. Those *other rules* require such things as secondary containment, and apply to products as well as wastes. Those rules are as follows:
 - Underground Storage Tanks Rules (UST; Env-Or 1401) apply to underground storage.
 - Aboveground Storage Tank Rules (AST; Env-Or 1402) apply to single tanks >660 gallons and/or when the total petroleum stored on site exceeds 1,320 gallons.
 - In cases where neither the UST nor AST rules apply, then the Best Management Practices for Groundwater Protection rules apply (BMPs: Env-Wq 401).
- The used oil rules are more stringent than federal requirements in some areas, while being less stringent in others. This is because the used oil rules were developed in 1989, at a time when EPA rules only covered marketing and burning. EPA updated their rules in 1992. New Hampshire has made attempts to revamp their state rules, but it remains an ongoing project. Currently, for example, NH does not have “processing” rules. However, it is again notable to add that the “other rules” (UST, AST, and BMPs) do have regulations pertaining to used oil that go beyond the used oil specific rules. Another example as to where NH is less stringent regards self-transportation, where a maximum of 110 gallons (rather than 55 gallons) is allowed to be self-transported per trip (using a bill of lading).

Used Oil Defined

- Used oil includes only oil refined from crude. However, in some cases policy allows synthetic oil to be managed as used oil. For example, in a Do-It-For-You lube shop, used petroleum based oil and used synthetic oil drained from automobile crankcases could be mixed and managed as “used oil”.
- By policy, the State follows federal guidelines regarding use-criteria in defining used oil.
- The State also strives to follow federal guidelines in distinguishing between used oil and waste oil. Though, admittedly, the terms are frequently interchanged.
- Used Oil is a state listed hazardous waste (Env-Hw 402.06 (c)). However, when certain criteria are met then used oil can be managed under a less stringent portion of the rules (Env-Hw 807 Requirements for Used Oil Being Recycled). The four criteria are as follows:
 - *Not Mixed with Hazardous Waste.
 - Does not exhibit a hazardous waste characteristic as set forth in Env-Hw 403, except as provided for in Env-Hw 807.02 or Env-Hw 807.03 (the spec/off-spec standards).
 - **Meets the specification or off-specification standards.
 - To be Recycled as a Used Oil.

*note-1: policy does allow mixtures of spent mineral spirits *that are hazardous only due to the characteristic of ignitability* and used oil to be managed as used oil when the mixture has a flashpoint $\geq 140^{\circ}\text{F}$. Despite the policy, the practice is discouraged due to the complexity of assuring that properly timed and complete hazardous waste determinations are performed; and, for Service Station Dealers, due to the understanding that federal CERCLA liability exemptions would be lost even when the mixture is accomplished in accordance with state and federal guidelines. *CESQG wastes & HHWs are included along with other haz wastes that can not be mixed with used oil.*

**note-2: Used oil that fails to meet the off-specification standards must be managed as a hazardous waste, even if it is not mixed with hazardous waste.

Collection

- No facility is required to collect used oil (including DIY UO).
- Most municipal transfer stations, many service stations & Do-It-For-You lube facilities do collect DIY UO.
- Annual grants are available to political subdivisions, inspection stations, and some non-profit organizations with regard to used oil and filter management.
- Mobile oil changers are allowed to assume the role of generator when they perform off-site oil changes.
- When used oil changes hands then a marketing activity has transpired. Among other things, this means that each batch of used oil collected must undergo *complete* laboratory analyses. This includes used oil, in any quantity, from political subdivisions, commercial establishments, CESQGs, farmers, truckers, loggers, etcetera; along with bulk DIY UO. The only exception is that when individual DIYers deliver their DIY UO to a facility *then that would not be considered a marketing activity*. Also, generators can move their own used oil from one of their facilities (same business-owner or municipality) to another one of their facilities without a need to comply with marketer regulations. For example, a Transfer Station at one end of Town-A collects DIY UO. Town-A can self-transport (110 gal max; bill of lading) to the other end of Town-A where the UO is recycled in their Highway Garage notified burner/space-heater.
- In addition to testing requirements relative to marketing, used oil generators are required to perform an initial used oil determination (laboratory analyses); to be repeated if/when the process changes or if the used oil is mixed with other materials. Used oil that consists totally of unmixed *automotive* oil (and/or non-marketed DIY UO) does not need to undergo an initial used oil determination (but, the oil would need to be tested if marketed).
- For purposes of the aforementioned exemption, “automotive oil” means motor, engine, and gear oils, and transmission and brake fluids.

Total Halogens

- Transporters are not specifically required to perform Total Halogens tests. However, they are required to identify the wastes/materials they transport. Transporters generally do total halogens testing as part of their screening process.
- When the presumption is rebutted, used oil with Total Halogens that exceed 1,000 ppm is classified as Off-Specification (not Specification), regardless of whether or not the Total Halogen concentration exceeds 4,000 ppm (*federal specification threshold*) and regardless as to if all other specification standards are met.
- Used oil that fails to meet the off-specification standards is classified as hazardous waste (even if it is not mixed with hazardous waste) and *cannot* be mixed with other oils in order to meet the specification or off-specification parameters.
- Used oil that is classified as off-specification used oil *can* be blended in order to be reclassified as specification oil. With regard to Total Halogens >1,000ppm, *where the presumption has been rebutted*, the blend would need to have a Total Halogens concentration <1,000ppm.

Burning

- All used oil burners are required to provide a notification form and conform to state fire codes. In addition, some used oil burners also need to obtain an Air Permit. Burner Notification is specific to the property/business. That is, a business with several buildings on one property can perform oil changes in one building and recycle that oil in another building. They could also have multiple burners.
- State fire codes do not allow the burning of used oil in residential settings.
- State Fire codes do not allow the burning of gasoline in used oil burners.

Transportation

- Only registered haz waste transporters who are also notified used oil transporters are allowed to transport any used oil which they did not self-generate and/or self-generated used oil in excess of 110 gallons/trip.
- Generators can self-transport their own used oil (110 gallon/trip).
- Specifically worded bills of lading must accompany each shipment of used oil (whether self-transported, or transported by a registered transporter). A manifest can be used in lieu of a bill of lading when shipping to states that require same.
- Individual DIYers do not need a BoL to self-transport their own DIY UO.

Some Likely (?) Violations

Activities

- Wrongful marketing of small volumes of untested UO to local burners (*generator gives to guy-down-the-street*). Larger volumes are generally picked up at no charge by legitimate marketers.
- Possible mixing of small quantities of spent parts washer with UO (particularly low-flash solvents or petroleum based solvents (i.e.: kerosene & diesel)). Unsure of the likelihood, but seems probable.

Storage

- **UO Regs:** improper labeling or lack of labels; also not uncommon for small tanks (≤ 300 gallons) and drums to be open (such as with an empty funnel, open bung, or unused pump wand in a tank hatch).
- **AST Regs, as they apply to UO:** sites that do not have a tank >660 gallons, but that are very close to the total petroleum threshold (1,320 gallons) seem more likely to violate registration and marking rules. Also, sites that have a registered tank >660 gallons seem likely to not apply the AST requirements to their tanks & containers that are <660 gallons.
- **BMP Regs:** it is not unusual for a facility to be out of compliance with BMP regs..

Transportation

- Lack of bill lading for those who self-transport.

On Line References

Reference materials and links to rules & related programs can be found at the **Used Oil Management Program** web address: <http://des.nh.gov/organization/divisions/waste/orcb/fms/uomp/index.htm>

Other programs/references (not listed at above site):

- **Pollution Prevention**

<http://des.nh.gov/organization/commissioner/p2au/pps/ppp/index.htm>

- **Salvage Yards**

<http://des.nh.gov/organization/divisions/waste/swmb/tsei/greenyards/index.htm>

- **Petroleum Reimbursement Fund Program**

<http://des.nh.gov/organization/divisions/waste/orcb/fms/prfp/index.htm>

Also: the **Department homepage** is listed below. Topic searches can be performed by pressing the “Site List” button on the left side of the homepage.

<http://des.nh.gov/>

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