

(3) The mixture is subject to regulation as used oil under this subchapter, 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 N.J.A.C. 7:26G (for example, mineral spirits), provided that the mixture does not exhibit the characteristic of ignitability under 40 C.F.R. 261.21, as incorporated by reference at N.J.A.C. 7:26G-5; and

iii. Mixtures of used oil and conditionally exempt small quantity generator hazardous waste regulated under 40 C.F.R. 261.5, as incorporated by reference at N.J.A.C. 7:26G-5 are subject to regulation as used oil under this subchapter.

3. The following requirements apply to materials containing or otherwise contaminated with used oil:

i. Except as provided in (a)3ii below, materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material:

(1) Are not used oil and thus not subject to this subchapter; and

(2) If applicable are subject to the hazardous waste regulations of 40 C.F.R. Parts 260 through 266, 268, and 270, as incorporated by reference at N.J.A.C. 7:26G;

ii. Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this subchapter; and

iii. Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this subchapter.

4. The following requirements apply to mixtures of used oil with products:

i. Except as provided in (a)4ii below, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this subchapter; and

ii. Mixtures of used diesel engine crankcase oil and diesel fuel mixed on-site by the generator of the used diesel engine crankcase oil for use in the generator's own vehicles are not subject to this subchapter once the used diesel engine crankcase oil and diesel fuel have been mixed and provided that the blending is less than or equal to a maximum rate of five percent (that is, a 19 to 1 virgin fuel to used diesel engine crankcase oil dilution). Prior to mixing, the used diesel engine crankcase oil is subject to the requirements of N.J.A.C. 7:26A-6.4.

5. The following requirements apply to materials derived from used oil:

i. Materials that are reclaimed from used oil that are beneficially used or reused and are not burned for energy recovery or used in a manner constituting disposal (for example, re-refined lubricants) are:

(1) Not used oil and thus are not subject to this subchapter; and

(2) Not solid wastes and are thus not subject to the hazardous waste regulations of 40 C.F.R. Parts 260 through 266, 268, 270 and 124, as incorporated by reference at N.J.A.C. 7:26G;

ii. Materials produced from used oil that are burned for energy recovery (for example, used oil fuels) are subject to regulation as used oil under this subchapter;

iii. Except as provided in (a)5iv below, 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 subchapter; and

(2) Are solid wastes and thus are subject to the hazardous waste regulations of 40 C.F.R. Parts 260 through 266, 268, 270, and 124, as incorporated by reference at N.J.A.C. 7:26G if the materials are listed or identified as hazardous wastes; and

iv. Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this subchapter.

6. Wastewater, the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewaters at facilities which have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this subchapter. For purposes of this paragraph, "de minimis" quantities of used oils are defined as 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 shall 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.

7. Used oil that is placed directly into a crude oil or natural gas pipeline is subject to the management standards of this subchapter only prior to the point of introduction to the pipeline. Once the used oil is introduced to the pipeline, the material is exempt from the requirements of this subchapter.

8. Used oil produced on vessels from normal shipboard operations is not subject to this subchapter until it is transported ashore.

9. In addition to the requirements of this subchapter, marketers and burners of used oil who market used oil

containing any quantifiable level of PCBs are subject to the requirements found at 40 C.F.R. 761.20(e).

7:26A-6.2 Used oil specifications

(a) Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this subchapter unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in Table 1 below. 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 N.J.A.C. 7:26A-6.9(c), (d) and (e)³, the used oil is no longer subject to this subchapter.

TABLE 1

Used Oil not exceeding any specification level is not subject to this subchapter when burned for Energy Recovery (except as noted below).¹

Constituent/property	Allowable level
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum
Chromium	10 ppm maximum
Lead	100 ppm maximum
Flash point	100°F minimum
Total halogens	1,000 ppm maximum ²

NOTE: Applicable standards for the burning of used oil containing PCBs are also imposed by 40 C.F.R. 761.20(e).

1. The specification does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (see N.J.A.C. 7:26A-6.1).
2. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under N.J.A.C. 7:26A-6.1(a)2i. Such used oil is subject to 40 C.F.R. Part 266, subpart H, as incorporated by reference at N.J.A.C. 7:26G-10 rather than this subchapter when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

(b) On-specification used oil may be directly burned for energy recovery in any device, furnace, or boiler, provided a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus or Equipment" or other required authorization is obtained for the device in accordance with N.J.A.C. 7:27-8, 20, or 22 prior to burning.

Amended by R.2001 d.86, effective March 5, 2001.
See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).

In (b), inserted "or other required authorization" and amended N.J.A.C. reference.

7:26A-6.3 Prohibitions

(a) Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under 40 C.F.R. Part 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9.

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

(c) Off-specification used oil fuel shall not be burned for energy recovery except in the devices specified below, and provided a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus or Equipment" or other authorization is obtained for such device prior to burning in accordance with N.J.A.C. 7:27-8 or 22:

1. Industrial furnaces as defined in N.J.A.C. 7:26-1.4;
2. Boilers, as defined in N.J.A.C. 7:26-1.4, that are identified as follows:
 - i. 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; or
 - ii. Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; and
3. Hazardous waste incinerators subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9.

(d) On-specification used oil shall not be directly burned for energy in any residential or Category I institutional device, furnace or boiler defined pursuant to N.J.A.C. 7:27-8.

(e) The burning of on-specification used oil in oil-fired space heaters is prohibited except if the used oil fired space heaters meet the requirements of N.J.A.C. 7:26A-6.4(e).

(f) The burning of off-specification used oil in a space heater is prohibited in accordance with N.J.A.C. 7:27-20.7(a).

Amended by R.2001 d.86, effective March 5, 2001.
See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).

In (c), rewrote the introductory paragraph; in (e), inserted a reference to burning of on-specification used oil; added (f).

7:26A-6.4 Standards for used oil generators, DIY generators and motor oil retailers

(a) Except as provided in (a)1 through 4 below, this section applies to all used oil generators. A used oil generator is any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

1. Except as provided in (f) below, household do-it-yourselfer used oil generators are not subject to regulation under this subchapter.

2. Vessels at sea or at port are not subject to this section. For purposes of this section, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the person(s) 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 section once the used oil is transported ashore. The co-generators may decide among them which party will fulfill the requirements of this section.

3. Mixtures of used diesel engine crankcase oil and diesel fuel mixed by the generator of the used diesel engine crankcase oil for use in the generator's own vehicles are not subject to this subchapter once the used diesel engine crankcase oil and diesel fuel have been mixed and provided that the blending is less than or equal to a maximum rate of five percent (that is, a 19 to 1 virgin fuel to used diesel engine crankcase oil dilution). Prior to mixing, the used diesel engine crankcase oil fuel is subject to the requirements of this section.

4. 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 subchapter.

(b) Used oil generators who conduct the following activities are subject to the requirements of other applicable provisions of this subchapter as indicated in (b)1 through 5 below:

1. Generators who transport used oil, except under the self-transport provisions of (f)1 or 2 below, shall also comply with N.J.A.C. 7:26A-6.6.

2. Generators who process or re-refine used oil shall also comply with N.J.A.C. 7:26A-6.7.

3. Generators who burn off-specification used oil for energy recovery shall also comply with N.J.A.C. 7:26A-6.8.

4. Generators who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in N.J.A.C. 7:26A-6.2 shall also comply with N.J.A.C. 7:26A-6.9.

5. Generators who dispose of used oil shall also comply with N.J.A.C. 7:26A-6.10.

(c) Generators of used oil who mix hazardous waste with used oil are subject to the following:

1. Mixtures of used oil and hazardous waste shall be managed in accordance with N.J.A.C. 7:26A-6.1(a)2; and

2. The rebuttable presumption for used oil of N.J.A.C. 7:26A-6.1(a)2i(2) applies to used oil managed by generators. Under the rebuttable presumption for used oil,

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 rebutted. However, the rebuttable presumption does not apply to certain metalworking oils/fluids and certain used oils removed from refrigeration units.

(d) Used oil generators that store used oil are subject to the following:

1. Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures regulations (40 C.F.R. Part 112), N.J.A.C. 7:1E, regulations promulgated pursuant to the Federal Clean Air Act, and N.J.A.C. 7:27, in addition to the requirements of this section. Used oil generators are also subject to the Underground Storage Tank requirements of N.J.A.C. 7:14B and 40 C.F.R. Part 280 for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this section;

2. Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under 40 C.F.R. Part 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9;

3. Containers and aboveground tanks used to store used oil at generator facilities shall be:

i. In good condition (no severe rusting, apparent structural defects or deterioration); and

ii. Not leaking (no visible leaks);

4. Used oil generators shall label containers, tanks and pipes in accordance with the following:

i. Containers and aboveground tanks used to store used oil at generator facilities shall be labeled or marked clearly with the words "Used Oil"; and

ii. 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. Upon detection of a release of used oil to the environment not subject to the requirements of 40 C.F.R. Part 280, Subpart F, or N.J.A.C. 7:14B, a generator shall perform the following cleanup steps:

i. Stop the release;

ii. Contain the released used oil;

iii. Clean up and manage properly the released used oil and other materials; and

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

(e) Generators may burn on-specification used oil in used oil-fired space heaters provided that:

1. The heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators;

2. The heater is designed to have a minimum capacity of not more than 0.5 million BTU per hour;

3. The combustion gases from the heater are vented to the ambient air; and

4. The generator obtains a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus or Equipment" or other required authorization in accordance with N.J.A.C. 7:27-8, 20, or 22 prior to operating the space heater.

(f) Except as provided in (f)1 through 3 below, used oil generators shall ensure that their used oil is transported off-site only by transporters who have obtained EPA identification numbers.

1. Generators may transport, without an EPA identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourself generators to a used oil collection center provided that:

i. The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

ii. The generator transports no more than 55 gallons of used oil at any time; and

iii. The generator transports the used oil to a used oil collection center that is registered or recognized by a county or municipal government to manage used oil.

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

i. The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

ii. The generator transports no more than 55 gallons of used oil at any time; and

iii. The generator transports the used oil to an aggregation point that is owned and/or operated by the same generator.

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

i. The type of used oil and the frequency of shipments;

ii. That the vehicle used to transport the used oil to the processing/re-refining facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor/re-refiner; and

iii. That reclaimed oil will be returned to the generator.

(g) Do-it-yourselfer used oil generators and motor oil retailers are subject to the following:

1. No do-it-yourselfer shall relinquish possession of used oil except to:

i. A do-it-yourselfer used oil collection center or used oil aggregation point during hours of operation;

ii. A district or municipally sponsored household hazardous waste collection event; or

iii. A facility authorized by the State in which it is located to accept used oil.

2. No do-it-yourselfer shall discharge water, antifreeze, industrial waste or any other contaminant into a used oil collection tank, or mix water, antifreeze, industrial waste or any other contaminant with used oil in any container which is then discharged into a used oil collection tank except for antifreeze or other similar materials at the approval of the collection site owner for ease of transportation for recycling.

3. Nothing in this subchapter shall require the owner or operator of a used oil collection center to accept used oil which the owner or operator reasonably suspects to contain water, antifreeze, industrial waste or any other contaminant.

4. No person shall sell or offer for sale, at retail or at wholesale for direct retail sale in this State, any motor oil in containers unless the following statement is prominently displayed on the label:

DON'T POLLUTE—CONSERVE RESOURCES;

RETURN USED OIL TO COLLECTION CENTER

5. Motor oil retailers shall conspicuously post and maintain a durable and legible sign, not less than 11 inches high by 15 inches wide, containing the following statement in characters no less than one inch in height:

DON'T POLLUTE—CONSERVE RESOURCES;

RETURN USED MOTOR OIL TO A COLLECTION
CENTER FOR RECYCLING

i. The sign shall be displayed in the following manner:

(1) Suspended from the ceiling, or affixed to a wall, shelf, or freestanding display, at a height no greater than eight feet above the ground at its highest point and no less than four feet above the ground at its lowest point; and

(2) Adjacent to the motor oil display area of the sales counter.

Amended by R.2001 d.86, effective March 5, 2001.

See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).

In (b)1, substituted "(f)1 or 2" for "(e)1 and 2" following "provisions of"; rewrote (b)3; in (e), inserted "on-specification" preceding "used oil" in the introductory paragraph; added (e)4.

7:26A-6.5 Standards for used oil collection and aggregation points

(a) Do-it-yourselfer used oil collection centers are subject to the following:

1. This subsection applies to owners or operators of all do-it-yourselfer (DIY) used oil collection centers. A DIY used oil collection center is any site or facility that accepts/aggregates and stores used oil collected only from household do-it-yourselfer generators.

2. Owners or operators of all DIY used oil collection centers shall comply with the generator standards in N.J.A.C. 7:26A-6.4.

(b) Used oil collection centers are subject to the following:

1. This subsection applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that accepts/aggregates and stores used oil collected from used oil generators regulated under the provisions of N.J.A.C. 7:26A-6.4(f)1. Used oil collection centers may also accept used oil from household do-it-yourselfers;

2. Owners or operators of all used oil collection centers shall:

i. Comply with the generator standards in N.J.A.C. 7:26A-6.4;

ii. Be registered or recognized by the county or municipality to manage used oil; and

iii. Within 90 days of becoming subject to this subchapter, post and maintain a durable and legible sign, no less than 11 inches high by 15 inches wide, containing the following statement in characters no less than one inch in height:

USED OIL COLLECTION CENTER

RECYCLE YOUR USED MOTOR OIL HERE

LIMIT: (if the used oil collection center sets a limit on the amount of used oil accepted, it shall be displayed as part of the sign)

FEE: (If the used oil collection center charges a fee for this service, the fee shall be displayed as part of the sign.)

(1) The sign shall be posted on an outside wall of the collection center, or other appropriate location, facing a public thoroughfare, to provide the public with an unobstructed view of the sign. This sign shall be displayed at a height no greater than eight feet above ground at its highest point and no less than four feet above the ground at its lowest point.

(c) The standards for used oil aggregation points owned by the generator are as follows:

1. This subsection applies to owners or operators of all used oil aggregation points. A used oil aggregation point is any site or facility that accepts, aggregates, and/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 this subchapter. Used oil aggregation points may also accept used oil from household do-it-yourselfers.

2. Owners or operators of all used oil aggregation points shall comply with the generator standards in N.J.A.C. 7:26A-6.4.

Amended by R.2001 d.86, effective March 5, 2001.

See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).

In (b)1, amended the N.J.A.C. reference.

7:26A-6.6 Standards for used oil transporters and transfer facilities

(a) The standards that apply to used oil transporters and transfer facilities are as follows:

1. Except as provided in (a)1i through iv below, this section applies to all used oil transporters. Used oil transporters are persons who transport used oil, persons who collect used oil from more than one generator and transport the collected oil, and owners and operators of used oil transfer facilities;

i. This section does not apply to on-site transportation;

ii. This section does not apply to generators who transport shipments of used oil totaling 55 gallons or less from the generator to a used oil collection center as specified in N.J.A.C. 7:26A-6.4(f)1;

iii. This section does not apply to generators who transport shipments of used oil totaling 55 gallons or less from the generator to a used oil aggregation point owner or operated by the same generator as specified in N.J.A.C. 7:26A-6.4(f)2; or

iv. This section does not apply to transportation of used oil from household do-it-yourselfer used oil generators to a regulated used oil generator, collection center, aggregation point, processor/re-refiner, or burner

subject to the requirements of this subchapter. Except as provided in 1i through 1iii above, this section does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected;

2. Transporters who import used oil from abroad or export used oil outside of the United States are subject to the requirements of this section from the time the used oil enters and until the time it exits the United States;

3. Unless trucks previously used to transport hazardous waste are emptied as described in 40 C.F.R. 261.7, as incorporated by reference at N.J.A.C. 7:26G-5 prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and shall be managed as hazardous waste unless, under the provisions of N.J.A.C. 7:26A-6.1(a)2, the hazardous waste/used oil mixture is determined not to be hazardous waste;

4. Used oil transporters shall comply with the applicable Federal Motor Carrier Safety and Federal Hazardous Materials Transportation regulations. Used oil transporters who conduct the following activities are also subject to other applicable provisions of this subchapter as indicated in (a)4i through v below:

i. Transporters who generate used oil shall also comply with N.J.A.C. 7:26A-6.4;

ii. Transporters who process or re-refine used oil, except as provided in (b) below, shall also comply with N.J.A.C. 7:26A-6.7;

iii. Transporters who burn off-specification used oil for energy recovery shall also comply with N.J.A.C. 7:26A-6.8;

iv. 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 N.J.A.C. 7:26A-6.2 shall also comply with N.J.A.C. 7:26A-6.8; and

v. Transporters who dispose of used oil shall also comply with N.J.A.C. 7:6A-6.10;

5. A used oil transporter, who transports used oil or collects and transports used oil, and who is not exempted from this section as provided at (a)1 above, shall also comply with the standards concerning solid waste transportation at N.J.A.C. 7:26-3, including approved registration statement and vehicle registration requirements; and

6. A person transporting used oil from mobile field changing operations shall not be subject to the standards concerning solid waste transportation at N.J.A.C. 7:26-3.

(b) The following are restrictions on transporters who are not also processors or re-refiners:

1. Used oil transporters shall consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in (b)2 below, used oil transporters may not process used oil unless they also comply with the requirements for processors/re-refiners in N.J.A.C. 7:26A-6.7; and

2. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (for example, settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products unless they also comply with the processor/re-refiner requirements in N.J.A.C. 7:26A-6.7.

(c) Notification standards for used oil transporters are as follows:

1. Used oil transporters shall comply with this subsection and obtain an EPA identification number unless they have already notified the USEPA of their hazardous waste management activities in accordance with the requirements of Resource Conservation and Recovery Act (RCRA) section 3010; and

2. A used oil transporter who has not received an EPA identification number may obtain one by notifying the USEPA Region II of its used oil activity by submitting either:

i. A completed EPA Form 8700-12 (To obtain ordering information for EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

ii. A letter requesting an EPA identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following:

(1) The transporter company name;

(2) The owner of the transporter company;

(3) The mailing address for the transporter;

(4) The name and telephone number for the transporter point of contact;

(5) The type of transport activity (that is, transport only, transport and transfer facility, transfer facility only);

(6) The location of all transfer facilities at which used oil is stored; and

(7) The name and telephone number for a contact at each transfer facility.

(d) The standards for used oil transportation are as follows:

1. A used oil transporter shall off load all used oil received at or to: