



## Used Oil Generators Technical Guidance Document HW-1999-G1

This technical guidance document (TGD) describes the requirements of 40 CFR Part 279, the federal used oil regulations, as they apply to used oil generators. Kansas has adopted 40 CFR Part 279 by reference in K.A.R. 28-31-279.

### Definition of Used Oil

“Used oil” means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities (40 CFR 279.10). Used oil includes, but is not limited to:

- Materials that contain free-flowing used oil;
- Wastewaters that contain more than “de minimis” amounts of used oil;
- Water-soluble cutting oils and coolants; and
- Heat transfer oils.

Petroleum-based antifreeze and solvents and vegetable-based oils are not considered used oil.

### PCB-containing Used Oil

Used oil that contains Polychlorinated Biphenyls (PCBs) is not regulated under 40 CFR Part 279 or KAR 28-31-279 and should be managed according to regulations within the Toxic Substances Control Act (TSCA).

### Used Oil Recycling

KDHE and EPA presume that most used oil will be recycled, e.g., burned for energy recovery or re-refined. Used oil that has been contaminated while being used for its intended purpose and that may exhibit a characteristic of hazardous waste is regulated as:

- Used oil, if the used oil will be recycled.
- Solid waste that is potentially a hazardous waste, if the used oil will be sent for disposal. A hazardous waste determination must be made prior to disposal.

### Used Oil Generators

A used oil generator is any person whose act or process produces used oil or causes used oil to

become subject to regulation. The generator does not need to obtain an EPA identification number if the generator:

- Is not a hazardous waste generator; and
- Burns only the generator’s own used oil in an on-site used-oil-fired space heater.

### Exemptions

Except for prohibited uses and disposal of used oil, the following generators are not subject to the used oil regulations:

- Household “do-it-yourselfers” (people who change their own oil);
- Vessels that are at sea or port;
- Generators who mix used oil with diesel fuel for use in their own vehicles; and
- Farmers who, in a calendar year, generate an average of no more than 25 gallons of used oil per month from vehicles or machinery used on the farm.

### Mixtures of Used Oil and Hazardous Waste

In general, if a Kansas Small Quantity Generator (KSQG), Small Quantity Generator (SQG), or Large Quantity Generator (LQG) mixes any amount of listed hazardous waste with used oil, the entire mixture is regulated as listed hazardous waste and is subject to all the state hazardous waste management statutes and regulations.

If a KSQG, SQG, or LQG mixes any amount of characteristic hazardous waste with used oil, the resulting mixture is regulated as:

- Hazardous waste, if the mixture exhibits any characteristic of hazardous waste; or
- Used oil, if the mixture does not exhibit any characteristic of hazardous waste.

For example, if the waste mixed into the used oil was hazardous solely because it exhibits the characteristic of ignitability and the resultant mixture does not exhibit the characteristic of ignitability, the mixture may be managed as used oil.

If a Conditionally Exempt Small Quantity Generator (CESQG) mixes any listed or characteristic hazardous waste with used oil, the mixture is regulated as used oil, unless the used oil will be disposed of rather than recycled. A mixture being disposed of is subject to all the state hazardous waste management statutes and regulations.

### **Rebuttable Presumption**

All generators of used oil are subject to the rebuttable presumption for used oil. Under the rebuttable presumption, KDHE presumes that used oil that contains more than 1,000 ppm total halogens has been mixed with one or more listed halogen-containing hazardous wastes, such as a chlorinated degreasing solvent like trichloroethylene. A generator may contest this presumption by demonstrating to KDHE that the halogens did not come from regulated hazardous waste. This is usually done by having the used oil analyzed by a KDHE-certified laboratory to show that there are not significant concentrations of the hazardous constituents listed in Appendix VIII of 40 CFR Part 261 present in the used oil. If a CESQG mixes halogenated waste with used oil, the generator must demonstrate that the generator was a CESQG when the mixing occurred.

There are two conditions under which the rebuttable presumption does not apply:

1. The used oil is a metalworking oil/fluid containing chlorinated paraffins, e.g., cutting oils or coolants, and the oil/fluid is processed and reclaimed under a tolling agreement.
2. The used oil contains chlorofluorocarbons (CFCs) removed from refrigeration units and the used oil is being processed to recover the CFCs. (Note: CFCs from other sources that are mixed with used oil are

subject to the rebuttable presumption even if the CFCs will be reclaimed.)

### **Material Containing Free-flowing Used Oil**

Materials that contain or are contaminated with free-flowing used oil are regulated as used oil until the used oil has been properly drained or removed to the extent possible and no visible signs of free-flowing oil remain in or on the material, with the following exceptions.

- Materials containing or contaminated with used oil that are beneficially reused or recycled are not wastes and are not subject to waste management regulations.
- Materials containing or contaminated with used oil that are burned for energy recovery are regulated as used oil. For example, undrained used oil filters sent to a utility boiler to be burned for energy recovery are subject to all used oil regulations.
- Materials containing or contaminated with used oil that are disposed of are subject to the state hazardous and solid waste statutes and regulations.

### **Mixtures of Used Oil and Products**

Mixtures of used oil and fuels or fuel products are regulated as used oil. However, a mixture of used oil and diesel fuel used by a generator in the generator's own vehicles is not regulated as used oil after mixing.

### **Materials Derived from Used Oil**

Materials derived or reclaimed from used oil that are beneficially used are not wastes and are not subject to waste management regulations unless the materials will be burned for energy recovery or used in a manner constituting disposal. For example, re-refined lubricants are considered products.

Materials derived from used oil that are disposed of or used in a manner constituting disposal are subject to the state hazardous and solid waste statutes and regulations. However, used oil re-refining bottoms that are used as feedstock to make asphalt are not regulated as used oil.

### Storage Requirements for Generators

Generators may store used oil in containers, underground and aboveground tanks, and in other approved storage units. Aboveground used oil tanks with a capacity of 660 gallons or more and all underground used oil tanks must be registered with KDHE. Please call (785) 296-8061 for registration information and requirements.

Used oil generators must comply with the following storage requirements:

- All containers, aboveground tanks, and fill pipes for underground tanks must be labeled with the words “Used Oil.”
- All storage units must be in good condition, e.g., no leaking or severely corroded containers or tanks.
- If applicable, a Spill Prevention Control and Countermeasures (SPCC) plan must be completed. Please call the United States Environmental Protection Agency (EPA) at (913) 551-7647 for more information about SPCC plans.
- Underground tanks must comply with the Kansas Underground Storage Tank regulations.

### Cleanup of Releases and Spills

All generators must be prepared for accidental releases or spills of used oil. If used oil is released or spilled, you must:

- Stop the release and repair or replace leaking containers, tanks, or pipes;
- Contain the released oil;
- Clean up and properly manage the released oil and other contaminated materials; and
- Report the incident to KDHE’s Bureau of Environmental Remediation (785-296-1679) if there is a release or spill of used oil onto or into the soil or water.

### Shipping Used Oil

When shipping used oil off-site, a generator must use a used oil transporter who has registered with KDHE, except under the following conditions:

1. The used oil is generated on-site or collected from household do-it-yourself oil changers, **and**
  - a. The generator transports the used oil in the generator’s own vehicle or a vehicle owned by an employee of the generator,
  - b. The generator transports no more than 55 gallons at one time,
  - c. The used oil is taken to a used oil collection center or aggregation point.

OR
2. The used oil is transported under a tolling agreement between the generator and a used oil processor or re-refiner, provided the used oil is reclaimed and returned to the generator for use as a lubricant, cutting oil, or coolant. The tolling agreement must specify the following:
  - a. The type of used oil transported, e.g., cutting oil;
  - b. The frequency of the shipments;
  - c. The vehicle used to transport the used oil is owned by the processor/re-refiner; and
  - d. The reclaimed oil will be returned to the generator.

### Prohibited Uses and Disposal of Used Oil

Used oil may not be used as a dust suppressant, pesticide carrier, sealant or coating, or for any similar purpose. Used oil may not be disposed of by discharging into any sewers, storm drainage system, or surface water or groundwater, or by depositing on or under land, including landfills. These prohibitions also include all materials containing free-flowing used oil.

Although the regulations specify prohibited uses and disposal of used oil, these same prohibitions generally will apply to all types of oil being disposed of, whether it is unused virgin product, off-specification virgin product, or used oils not covered by the definition of used oil, such as vegetable oil. Spills of virgin oil product that are fully absorbed may be disposed of at a permitted sanitary landfill or land-farmed with approval from KDHE.

### **Used Oil Filters**

Non-tern plated used oil filters that are properly hot drained for 12 hours or are processed to remove all free-flowing used oil are otherwise exempt from the hazardous waste regulations and may be disposed of at a permitted municipal landfill. It is recommended that the dome or anti-siphon valve be punctured when draining spin-on type filters. KDHE encourages generators to recycle metal filters, when feasible.

### **Additional Guidance**

For more information concerning on-specification and off-specification used oil and the burning of used oil, particularly in space heaters, refer to TGD HW-1998-G2, Used oil Burning and Fuel Specifications.

For additional information regarding the requirements for used oils collections centers, do-it-yourselfer used oil collection centers, and used oil aggregation points, see TGD HW-2000-G1, Used Oil Collection Centers and Aggregation Points.

For information about management of wastewaters containing used oil, used oil placed into crude oil pipelines or refineries, or used oil containing PCBs, please contact the Bureau of Waste Management as indicated below.

These are general guidelines only. For information regarding any specific or different management options, or for additional information regarding the proper management of solid or hazardous waste in Kansas, you may visit the Bureau of Waste Management website at <http://www.kdheks.gov/waste/> or contact the Bureau at: (785) 296-1600, bwm\_web@kdheks.gov, or the address at the top of this document.