

REVISIONS TO 310 CMR 30.000
CLEAN COPY - 2/17/09

1. 310 CMR 30.010 is hereby amended to read as follows:

Oil means petroleum in any form including crude oil, fuel oil, petroleum derived synthetic oil, refined oil products, including petroleum distillates such as mineral spirits and petroleum naphtha composed primarily of aliphatic hydrocarbons. It does not mean petrochemicals or animal or vegetable oils.

Used Waste Oil means used and/or reprocessed, but not subsequently re-refined, oil that has served its original intended purpose. Such oil includes, but is not limited to, fuel oil, engine oil, gear oil, cutting oil, petroleum distillates such as mineral spirits and petroleum naphtha composed primarily of aliphatic hydrocarbons, transmission fluid, and dielectric fluid. It does not mean petrochemicals or animal or vegetable oils.

310 CMR 30.010 is further amended by adding the following definition:

Petrochemical means an individual organic chemical compound for which petroleum or natural gas is the ultimate raw material, except that aliphatic hydrocarbon compounds, which maintain, after use, closed cup flashpoints equal to or greater than 140° F (and which are not otherwise a characteristic or listed hazardous waste) are oils. A mixture of a petrochemical and a petroleum distillate that has a closed cup flashpoint equal to or greater than 140° F (and which is not otherwise a characteristic or listed hazardous waste if discarded) is oil.

NOTE: Oil refinery conversion processes change the size and/or structure of hydrocarbon molecules in petroleum distillates to produce petrochemicals (e.g. olefinic and aromatic organic compounds) and their derivatives (e.g. monomers used to produce plastics, synthetic fibers and rubbers).

2. Crime involving moral turpitude definition – addition.

310 CMR 30.010 is hereby amended by inserting after the definition of “Corrosion Expert”, the following definition:

Crime involving moral turpitude means a crime involving fraud, misrepresentation or deceit, including but not limited to fraud, misrepresentation or deceit in conducting business or obtaining a license or permit as well as any other crime that adversely reflects on the applicant or licensee's competence to transport, use, collect, store, treat or dispose of hazardous waste.

310 CMR 30.803(11) is hereby amended by inserting the following underlined addition:

A listing and explanation of all past and pending criminal convictions, criminal indictments, civil penalties, notices of violation, administrative orders, and license revocations and suspensions issued or obtained by any State or Federal authority citing a violation of any statute, regulation, or court order relating to hazardous waste management or transportation, and other related environmental or public health statutes or regulations, or any crime involving moral turpitude by the person applying for a license or by an officer, director, or partner, or any person named in 310 CMR 30.803(9) covering a five year period prior to the date of receipt of the application by the Department.

3. Manifest definition – correction.

Manifest means the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), originated and signed by the generator or offeror in accordance with the instructions in the Appendix to 40 CFR part 262 and the applicable requirements of 40 CFR parts 262 through 265, as in effect on July 1, 2006.

Manifest tracking number means the alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits), which is pre-printed in Item 4 of the Manifest by a registered source.

4. Adoption of federal exclusion for medicinal nitroglycerine in finished dosage forms

310 CMR 30.104: * * *

(2) * * *

(v) Medicinal nitroglycerin, in finished dosage form such as tablets or capsules, that would otherwise meet the description of a P081 listed waste, is not subject to hazardous waste regulation pursuant to 310 CMR 30.000 so long as, upon generation, the following conditions are met:

1. the waste does not meet the description of any other listing; and
2. the waste does not exhibit any hazardous waste characteristic, including the characteristic for which it was originally listed (i.e. the reactivity characteristic, as described at 310 CMR 30.124).

5. Formatting corrections to 310 CMR 30.104(3)(f)-(g).

(f) Dredged material when temporarily stored at an intermediate facility pursuant to 314 CMR 9.07(4), or when placed in confined disposal pursuant to 314 CMR 9.07(8), provided it is managed in accordance with the following:

1. the material is managed in accordance with requirements established in a Clean Water Act (33 U.S.C. 1344) § 401 certification, specifically covering the intermediate facility or the confined disposal; and
2. the material is managed in accordance with requirements included in a permit issued under § 404 of the Clean Water Act, specifically covering the intermediate facility or the confined disposal;
3. this exemption shall not apply:
 - a. to any facility or activity that is not subject to regulation under § 404 of the Clean Water Act;
 - b. to any facility or activity for which 401 certification requirements have been waived by the Department;
 - c. to any facility or activity regarding which all 401 certification requirements established by the Department have not been included in a 404 permit; or
 - d. if the Department determines that compliance with some or all of the provisions of 310 CMR 30.000 is required.

(g) Low-level mixed waste and the transportation and disposal of Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM) that contain hazardous waste managed in compliance with 40 CFR Part 266, Subpart N (as in effect July 1, 2005), hereby incorporated by reference, subject to the following exceptions, additions and modifications:

1. When the low-level mixed waste referenced in 310 CMR 30.104(3)(g) has met the requirements for reaching background radiation levels in its Nuclear Regulatory Commission background license for decay-in-storage and can be disposed of as a nonradioactive waste, then the conditional exemption for

storage no longer applies and such waste is subject to hazardous waste regulation pursuant to the applicable provisions of 310 CMR 30.000.

2. Within three days of becoming subject to hazardous waste regulation, pursuant to 310 CMR 30.104(3)(g)1., such waste shall be transferred to the generator's hazardous waste accumulation area, and labeled with the date on which the waste was transferred to the accumulation area as the container accumulation start date.

6. Amend 310 CMR 30.010, 30.222(1), 30.222(4)(b) and 310 CMR 30.223(3):

Directly to a facility means a hazardous waste or regulated recyclable material shipment is collected by a transporter at the point of generation and remains in transportation at all times from the time of acceptance from the generator to delivery of the shipment at the destination facility designated on the manifest or shipping paper by the generator. Such shipments are in transportation as long as the hazardous waste or regulated recyclable material remains loaded on the transporter's vehicle after acceptance and until delivery to the designated destination facility. However, the transfer of containers of hazardous waste and regulated recyclable material between vehicles at transfer stations, as allowed under state, federal and local laws and regulations, and receipt and intermediate storage of Class A regulated recyclable material at Massachusetts licensed treatment, storage and disposal facilities, may be considered in transportation for the purpose of 310 CMR 30.010: Directly to a Facility.

310 CMR 30.222(1) is amended to read as follows:

30.222: Generator Standards

(1) Except as otherwise specifically provided in 310 CMR 30.222 and 310 CMR 30.353 a generator of Class A regulated recyclable material may sell or otherwise transfer such material, or contract to sell or otherwise transfer such material, or cause or allow such material to be transported off the site of generation, directly to either

(a) a facility described in 310 CMR 30.305, or

(b) a facility that has a Class A permit pursuant to 310 CMR 30.220, or

(c) a facility outside of Massachusetts that is properly authorized under that state's applicable authority and is identified in the generator's Class A recycling permit to receive Class A regulated recyclable material from that generator pursuant to 310 CMR 30.224(1)(c).

310 CMR 30.222(4)(b) is amended to read as follows:

(4) Very Small Quantity Generators of Class A regulated recyclable material excluded from Class A permit requirements at 310 CMR 30.221(3)(a)1. and 2. shall not accumulate at any one time 1000 kilograms or more of regulated recyclable material.

(a) Very Small Quantity Generators of Class A regulated recyclable material that recycle at the site of generation in accordance with 310 CMR 30.221(3)(a)1. shall also manage such regulated recyclable material in a manner which neither could nor does endanger public health, safety, or welfare or the environment, and in compliance with 310 CMR 30.222(5)(c), 30.222(5)(d)2., 30.222(5)(d)7., 30.222(5)(e), 30.222(5)(i) and the applicable performance standards at 310 CMR 30.222(6).

(b) For shipments off the site of generation of 100 kg or less of Class A regulated recyclable materials by Very Small Quantity Generators, excluded at 310 CMR 30.221(3)(a)2., the generator shall:

1. keep, for a period of at least three years from the date of recycling:

a. a record from the recycling facility, certified pursuant to 310 CMR 30.009, that the materials were recycled in compliance with applicable State and Federal laws and regulations; and

b. a record of each shipment sent off-site that satisfies the requirements described at 310 CMR 30.223(4)(b).

2. accumulate the material prior to shipping in containers that are sealed, structurally sound, and labeled as a "Regulated Recyclable Material" and with the material identified with words and the type of hazard(s) associated with the material(s) indicated in words (e.g., ignitable, toxic, dangerous when wet).

3. comply with 310 CMR 30.222(1)a.-b., except that shipments of regulated recyclable material being sent off the site of generation to an out-of-state facility need not be managed in compliance with 310 CMR 30.305(2), but shall instead be sent directly to a facility that is authorized by that state to recycle that material.

310 CMR 30.223(3) is amended to read as follows:

(3) A transporter of Class A regulated recyclable material may cause or allow such material to be transported off the site of generation directly to either:

(a) a facility described in 310 CMR 30.222(1), or

(b) a transporter described in 310 CMR 30.223(1).

And finally, 310 CMR 30.223 is amended by inserting the following immediately after 310 CMR 30.223(5):

(6) A transporter of Class A regulated recyclable material described in 310 CMR 30.223(1) or 30.223(2) shall retain for at least three years from the date it accepts Class A regulated recyclable material from a generator, a copy of the shipping paper or manifest used to comply with 310 CMR 30.223(4). All recordkeeping shall be in compliance with 310 CMR 30.007.

7. Correction to 310 CMR 30.253(9)-(10): this revision moves a requirement from 310 CMR 30.253(10) to where it belongs in 30.253(9).

(9) Except for the generators described in 310 CMR 30.253(10), all generators of waste oil and/or off-specification used oil fuel (specification used oil fuel is subject to 310 CMR 30.222) shall cause such waste oil or used oil fuel, when it is collected and transported, to be accompanied by a hazardous waste manifest which shall be filled out, signed, and distributed, and copies of which shall be kept, in compliance with all provisions of 310 CMR 30.000 governing the filling out, signing, distribution, and keeping of copies of manifests. Generators subject to 310 CMR 30.253(9) shall notify the Department and obtain an identification number pursuant to 310 CMR 30.060 through 30.064.

(10) Persons who generate and accumulate waste oil or off-specification used oil fuel (specification used oil fuel is subject to 310 CMR 30.222) in quantities entitling them to the status of either a Small Quantity Generator pursuant to 310 CMR 30.351 or a Very Small Quantity Generator pursuant to 310 CMR 30.353, and who generate and accumulate all other regulated recyclable materials and all other hazardous wastes in quantities entitling them to the status of a Very Small Quantity Generator pursuant to 310 CMR 30.353 need not handle such waste oil or off-specification used oil in compliance with 310 CMR 30.253(9), and instead shall cause such waste oil or off-specification used oil fuel to be handled in compliance with the following requirements:

(a) Generators subject to 310 CMR 30.253(10) shall register with the Department by notifying the Department in writing of their activity involving waste oil, off-specification used oil fuel, other regulated recyclable material, and other hazardous waste. Except as specifically provided elsewhere in 310 CMR 30.253(10), such registration shall be in compliance with requirements set forth or referred to in 310 CMR 30.353(5) (requirements governing Very Small Quantity Generators of hazardous waste).

(b) Generators subject to 310 CMR 30.253(10) shall cause waste oil or off-specification used oil fuel, when it is collected and transported, to be accompanied by a hazardous waste manifest filled out, signed, and distributed in compliance with all provisions of 310 CMR 30.000 governing the filling out, signing, and distribution of copies of manifests.

8. Signage requirements for accumulation areas: Revisions to 310 CMR 30.253 and 30.341(4) relative to lettering of "Hazardous Waste" signage.

310 CMR 30.253(6) is hereby amended to read as follows:

(6) Generators of waste oil and/or used oil fuel shall comply with the following regulations, except that in implementing and enforcing said regulations with respect to used oil fuel, the term "used oil fuel" shall be used instead of the terms "waste" or "hazardous waste" wherever the latter two terms are used in said regulations, or in any other regulations referred to therein:

(a) All large quantity generators of waste oil and/or used oil fuel shall comply with 310 CMR 30.322, 30.323, 30.340(6), 30.341(2), (3), (5), (6), (7) and (8) as well as 310 CMR 30.342, and 310 CMR 30.343(1)(d), (e), (g) and (i). All areas where waste oil and/or used oil fuel is accumulated or stored, except for satellite accumulation areas, shall have posted at all times a sign with the words "WASTE OIL" in capital letters at least one inch high.

(b) All Small Quantity Generators of waste oil and/or used oil fuel shall comply with 310 CMR 30.351, including all regulations referred to therein, except that a Small Quantity Generator of waste oil and/or used oil fuel:

1. need not comply with the signage requirement of 310 CMR 30.341(4) referenced in 310 CMR 30.351(8)(a). Instead, all areas where waste oil and/or used oil fuel is accumulated or stored, except for satellite accumulation areas, shall have posted at all times a sign with the words "WASTE OIL" in capital letters at least one inch high.

2. need only comply with the following requirements of 310 CMR 30.343 referenced in 310 CMR 30.351(8)(c) regarding accumulation in tanks:

a. 310 CMR 30.343(1)(d) regarding Containment;

b. 310 CMR 30.343(1)(e) regarding General Operating Requirements;

c. 310 CMR 30.343(1)(g) relating to Response to Leaks or Spills and Disposition of Leaking Tank Systems; and

d. 310 CMR 30.343(1)(i) relating to Closure and Post-Closure Care.

(c) All Very Small Quantity Generators of waste oil and/or used oil fuel shall comply with 310 CMR 30.353, including all other regulations referred to therein, except that a Very Small Quantity Generator of waste oil and/or used oil fuel need not comply with the signage requirement of 310 CMR 30.341(4) referenced in 310 CMR 30.353(6)(h). Instead, all areas where waste oil and/or used oil fuel is accumulated or stored, except for satellite accumulation areas, shall have posted at all times a sign with the words "WASTE OIL" in capital letters at least one inch high.

9. Clarification that off-specification used oil fuel cannot be shipped to a B(3) facility that is only permitted to accept specification used oil fuel. 310 CMR 30.341(4) is hereby amended to read as follows:

(4) All areas where wastes are accumulated shall have posted at all times a sign with the words "HAZARDOUS WASTE" in capital letters at least one inch high.

310 CMR 30.254 is amended to read as follows:

30.254: Transport and Manifest Standards Governing Waste Oil and Used Oil Fuel

(1) A transporter of waste oil or of off-specification used oil fuel (specification used oil fuel is subject to 310 CMR 30.223) shall be licensed to transport hazardous waste pursuant to 310 CMR 30.000.

(2) A transporter of waste oil may cause or allow such material to be transported off the site of generation only to a person described in 310 CMR 30.404.

(3) A transporter of off-specification used oil fuel (specification used oil fuel is subject to 310 CMR 30.223) may cause or allow such material to be transported off the site of generation only to either:

(a) a person described in 310 CMR 30.404, or

(b) a facility that has a Class B(3) permit pursuant to 310 CMR 30.268.

10. Clarification that a marketer may ship to another marketer or to a burner

310 CMR 30.260 is hereby amended to read as follows:

30.260: Activities for Which Class B(3) Recycling Permits are Required

Before engaging in the following activities, the following persons shall apply for, obtain, and have in effect either a hazardous waste license issued pursuant to 310 CMR 30.800 or a Class B(3) recycling permit:

(1) A generator who intends to be, or who is, a "marketer" of off-specification used oil fuel by selling or otherwise transferring such fuel, or offering to sell or otherwise transfer such fuel, to other persons who burn that fuel, or who intend or plan to burn that fuel, for energy recovery. Such a generator shall comply with 310 CMR 30.261 and 310 CMR 30.262 in applying for a Class B(3) recycling permit for this activity.

(2) A "marketer", other than a transporter/marketer, who receives only specification used oil fuel from off the site of generation thereof, and who receives no other used oil fuel or waste oil or other hazardous wastes, and who intends to or does sell or otherwise transfer such fuel, or offer to sell or otherwise transfer such fuel, to any person authorized to market used oil fuel, or to other persons who burn that fuel, or who intend or plan to burn that fuel, for energy recovery in a fossil fuel utilization facility and have all required legal authority to burn such fuel in said fossil fuel utilization facility. Such a "marketer" shall comply with 310 CMR 30.263 and 310 CMR 30.264 in applying for and obtaining a Class B(3) recycling permit for this activity.

(3) A generator who intends to or does burn off-specification used oil fuel that is generated at the site of burning, and that is burned or intended to be burned in a fossil fuel utilization facility. Such a generator shall comply with 310 CMR 30.265 and 310 CMR 30.266 in applying for and obtaining a Class B(3) recycling permit for this activity.

(4) A person who burns, or who receives and intends to burn, off-specification used oil fuel not generated at the site of burning, and blended at the site of burning only in compliance with 310 CMR 30.251(3). Such a person shall comply with 310 CMR 30.267 and 310 CMR 30.268 in applying for and obtaining a Class B(3) recycling permit for this activity.

310 CMR 30.263 is hereby amended to read as follows:

30.263: Applications for Class B(3) Permits to Market Specification Used Oil Fuel

Any "marketer" wishing to receive specification used oil fuel from off the site of generation thereof, and then sell or otherwise transfer such fuel, or offer to sell or otherwise transfer such fuel, in compliance with a Class B(3) permit, to any person authorized to market used oil fuel, or to other persons who burn that fuel, or who intend or plan to burn that fuel, for energy recovery in a fossil fuel utilization facility and who have all required legal authority to burn such fuel in said fossil fuel utilization facility, shall apply to the Department for a Class B(3) permit to do so. The application

shall be on a form acceptable to the Department. In addition to what is set forth in 310 CMR 30.204, the application shall include:

(1) The name, address, and EPA identification number of each generator and each "marketer" from whom the specification used oil fuel is to be obtained. For each "marketer", the application shall include a reference to the recycling permit issued to that "marketer". If a generator is also a "marketer", the application shall so state and shall include a reference to the recycling permit issued to that "marketer".

(2) The name, address, and EPA identification number of each person to whom the specification used oil fuel is to be sold or otherwise transferred, or offered for sale or other transfer. For each such person, the application shall include a reference to the approval that person has to market or burn the specification used oil fuel.

(3) A statement of how the used oil fuel will be determined to be specification used oil fuel. If the applicant intends to use laboratory analysis to determine that used oil fuel is specification used oil fuel, the application shall include a statement naming each laboratory at which samples of the used oil fuel will be analyzed, whether and if so by whom each such laboratory is certified, and the quality assurance procedures to be used. If the applicant intends to rely on the representation of the generator that the material in question is specification used oil fuel, the application shall include a copy of the documentation obtained and kept by the generator pursuant to 310 CMR 30.222(3)(b).

11. Clarification that a generator of specification used oil fuel shipped using a marketer/transporter does not need a Class A permit

310 CMR 30.221(3) is hereby amended to read as follows:

(3) Recycling of Class A regulated recyclable material shall be done in compliance with the applicable permitting requirements of 310 CMR 30.220 or, for those activities specifically excluded from permitting in 310 CMR 30.221(3)(a), the performance standards described at 310 CMR 30.222.

(a) Class A recycling activities for which a recycling permit need not be obtained are as follows:

1. The recycling of Class A regulated recyclable materials at the site of generation;
2. The shipment off the site of generation for recycling within any calendar month of 100 kg or less of Class A regulated recyclable materials by a Very Small Quantity Generator of regulated recyclable material, excluding acutely hazardous regulated recyclable material, provided that material is managed in compliance with the requirements described at 310 CMR 30.222(4)(b);
3. The onsite recovery of silver from wastewater at the site of generation, provided such recycling is done in compliance with the Environmental Results Program regulations, 310 CMR 71.00 ; and
4. The shipment off the site of generation of specification used oil fuel (MA97) with a transporter/marketer authorized pursuant to 310 CMR 30.255.