

GUIDANCE FOR USED OIL MANAGEMENT
CHAPTER 62-710, FLORIDA ADMINISTRATIVE CODE (F.A.C.)
May 21, 2020

The Department recently adopted revisions to the used oil management rules to clarify certain requirements. The revised rules became effective on November 13, 2019. This guidance serves to provide further clarification for the public, the regulated community, and Department staff.

Facilities that Burn Used Oil On-site under a Valid Air Permit

Facilities that conduct processing operations or transport used oil incidental to burning the used oil as fuel on-site, provided a valid air permit authorizing such burning is in effect for the facility and all of the used oil fuel is burned on-site within the limits of a valid air permit, shall not be considered a processor, transporter, or transfer facility as defined under 62-710.201 and shall not be subject to the requirements of Rules 62-710.500, 62-710.510, 62-710.600, or 62-710.800, F.A.C.

Facilities that Discharge Wastewater under a Valid NPDES Permit

Many facilities are large and complex industrial manufacturing facilities that may have continuous monitoring and periodic inspections and sampling programs in place, discharging their wastewaters under a NPDES permit with an oil & grease limitation. These facilities should have compliance programs to insure compliance with used oil regulations and the Federal Spill Prevention, Control and Countermeasure requirements.

For facilities with NPDES permits, notwithstanding 62-710.401(2), F.A.C., which states the following; *“No person may discharge used oil into soils, sewers, drainage systems, septic tanks, surface or ground waters, watercourses, or marine waters”*, it should be understood that de minimis quantities of used oil are regulated by the Clean Water Act. De minimis quantities of used oil are small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations, or when small amounts of oil are lost to the wastewater treatment system during washing or draining.

Large industrial facilities may have installed complex machinery equipped with hydraulic systems or lubrication systems. Such systems may have de minimis oil discharges that are routed to sewers and drainage systems to the wastewater treatment systems and are treated, monitored, sampled and limited under the NPDES permit. The systems may also be equipped with oil/water separation devices and connected to oil collection systems. Any used oil that is recovered from the wastewater treatment system should be either managed with the rest of the facilities’ used oil as fuel, or

managed in accordance with the other applicable parts of Chapter 62-710, or in accordance with Chapter 62-701 or Chapter 62-730, F.A.C.

Therefore, it is important to understand that such facilities should have best practices in place, as required by their Industrial NPDES permit, that are intended to provide for the effective protection of ground and surface waters while maximizing energy recovery of used oil. In implementing these best practices, it may be impracticable for the facility to follow a strict interpretation of the requirements 62-710.401(2), F.A.C.

Used Oil Marketers

The definition of “processor” in subsection 62-710.201(3), F.A.C., means any person processing used oil. The term also includes any transfer facility that stores used oil for longer than 35 days at a time, any used oil fuel marketer who receives used oil from transporters and who has at least 25,000 gallons of used oil storage capacity, and any person who blends used oil with on-specification used oil fuel or with virgin petroleum products for the purpose of producing on-specification used oil fuel.

The definition of “used oil fuel marketer” in subsection 62-710.201(10), F.A.C., and 40 Code of Federal Regulations (C.F.R.) Part 279.1, means any person who conducts either of the following activities:

- (a) Directs a shipment of off-specification used oil from their 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 40 C.F.R. Part 279.11 [as adopted in subsection 62-710.210(2), F.A.C.].

While the definition of a used oil fuel marketer is fairly broad, the Department's requirements for registration and record-keeping are limited in paragraph 62-710.500(1)(c), F.A.C., to "used oil fuel marketers who *sell* used oil fuel." The definition of processor is not intended to extend the registration requirements of subsection 62-710.500(1), F.A.C., and record keeping requirements of subsection 62-710.510(1), F.A.C., to marketers who are not selling used oil fuel. The term marketer in subsection 62-701.201(3), F.A.C., should therefore be read to include only those marketers who sell used oil fuel and both receive used oil from transporters and have at least 25,000 gallons of storage capacity. Notwithstanding the above, a used oil marketer is required to obtain an EPA ID#, keep a record of shipments, and keep copies of analyses of the used oil in accordance with 40 C.F.R. 279.72, 279.73, and 279.74, adopted by reference in Rule 62-710.210, F.A.C.

Used Oil Transfer Facilities

The definition of processor is not intended to include any transfer facility that stores used oil for 35 days or less regardless of the transfer facility's used oil storage capacity, provided the facility is not processing the used oil as described in subsection 62-710.201(2), F.A.C.

Used Oil Storage

Subsection 62-710.401(6), F.A.C., sets out several requirements that apply to the storage of used oil in tanks or containers. These terms "tanks" and "containers" are not defined but should be interpreted broadly to include all types of containers that store used oil, including drip pans and portable collection containers. This means, for example, that all used oil storage tanks and containers must be labeled with the words "used oil" in order to minimize the risk of cross contamination.

Subsection 62-710.401(6), F.A.C., also refers to a "structure" without defining that term. In context, it is clear that this term must refer to those structures which will protect the used oil storage tank or container from the weather in much the same way as would a covering and/or proper use of lids. Any structure other than a building with four walls and a roof must be evaluated on a case by case basis to determine whether it is expected to adequately protect the used oil from the weather (e.g. blowing rain).

All tanks and containers, stored outside of a structure, regardless of their size, must be closed or covered, and must either be double-walled or stored on an oil impermeable surface with engineered secondary containment.

The Department recognizes that it is not always practical to have specially constructed secondary containment for small containers, drip pans, and portable collection containers, and that the environmental risks of a spill of used oil from small containers is minimal. The Department will therefore assume that portable collection containers and other small containers (those with a total capacity of equal to or less than 55 gallons) which are stored on an oil impermeable surface *inside a structure* will meet the secondary containment requirement.

For larger containers, the facility may demonstrate that the building structure meets secondary containment requirements. This demonstration could include, but is not limited to, the following:

- Appropriate documentation (such as an analysis by an engineer with experience in containment structures) that is maintained at the facility to demonstrate the structure's secondary containment is sufficient to contain spills and leaks from containers and prevent migration of used oil to the soil, groundwater or surface water.

- The container(s) is in good condition, and is not stored near a doorway leading outside or on a surface that slopes toward an outside doorway or drain that leads to the environment; the floor surface is in good condition and is oil impermeable, the walls connect to the floor, and there is sufficient volume to collect the used oil if it spills.

In addition, any portable collection containers regardless of size which have wheels, which are typically emptied within 24 hours, and which are stored on an oil impermeable surface inside a structure will meet the secondary containment requirement.

Used Oil Training Manual/Records

Paragraph 62-710.600(2)(b), F.A.C., requires certified used oil transporters to show evidence of familiarity with Florida and federal laws and rules governing used oil transportation and to have an annual and new employees training program in place covering the applicable rules. A record of training must be maintained in the company's operating and personnel files [paragraph 62-710.600(2)(c), F.A.C.]. The used oil transporter is no longer required to submit the training manual to the Department for approval. Instead, the used oil transporter is now required [paragraph 62-710.600(2)(d), F.A.C.] to submit an annual certification with the annual registration "which states that the used oil transporter is familiar with applicable Florida and federal laws and rules governing used oil transportation, has an annual and new employees training program in place covering the applicable rules that is still operating and is being adhered to and is annually reviewed and updated to address changes in regulations which apply to the operation, and which provides an explanation of any modifications to the training program."

Closure Certification

Subsection 62-710.800(3), F.A.C., states that a Professional Engineer registered in the state of Florida must sign and seal the certification of closure completion required in paragraph 62-710.800(5)(e). In addition, the certification must also be signed by the owner or operator of the facility.

If you have any questions or concerns regarding this guidance or the recently revised rules, please feel free to contact Janet Ashwood by phone (850) 245-8789 or email Janet.Ashwood@FloridaDep.gov.