

Memorandum

TO: Interested Parties

FROM: Rick Neves, Environmental Specialist

DATE: December 9, 2005

SUBJECT: Enforcement Guidance for Rule 62-710, Florida Administrative Code, Used Oil Management

Rule 62-710.201(3) defines a "processor" to include "any used oil marketer who receives used oil from transporters or who has at least 25,000 gallons of used oil storage capacity." While the definition of a used oil marketer found in 40 CFR 279 is fairly broad, the Department's requirements for registration and record-keeping are limited in Rule 62-710.500(1)(c) to "used oil marketers who sell used oil fuel." The definition of "processor" was not intended to extend registration and Form 62-710.901(2) record keeping requirements to marketers who are not selling used oil fuel, and the term "marketer" in Rule 62-701.201(3) should therefore be read to include only those marketers who sell used oil fuel and either receive used oil from transporters or have 25,000 gallons of storage capacity.

Rule 62-710.401(6) sets out several requirements that apply to the storage of used oil in tanks or containers. These terms are not defined but should be interpreted broadly to include all types of containers that store used oil, including drip pans, portable collection containers and satellite accumulation 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. It also means that all tanks and containers must have secondary containment unless they are double-walled.

The Department recognizes that it is not always practical to have specially constructed secondary containment for small containers, drip pans, portable collection containers, or satellite accumulation 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, satellite accumulation 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 requirement. 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.

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Like any assumption, this one may be overcome if site-specific conditions create a likelihood that any spill from the containers would not be adequately contained.

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 must be stored on an oil impermeable surface with engineered secondary containment.

Rule 62-710.401(6) 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).

In accordance with the requirement of Rule 62-710.800(3), a Certified Professional Engineer registered in the state of Florida must sign and seal the certification of closure completion required in Rule 62-710.800(5)(e).

If you have any questions or concerns regarding the newly promulgated standards, please feel free to contact me via email: Richard.neves@dep.state.fl.us, or by phone at: (850) 245-8755.