

SUBCHAPTER D : USED OIL FILTER MANAGEMENT AND RECYCLING
§§328.21-328.28
Effective December 23, 1999

§328.21. Definitions.

The following words, terms, and abbreviations when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

- (1) **Bill of lading** - A shipping document that confirms receipt of a shipment.
- (2) **Bulk filter container** - A portable device that:
 - (A) is part of an integrated delivery and retrieval system; and
 - (B) has a capacity greater than 330 gallons.
- (3) **Component parts** - The severable parts of an oil filter and includes oil present in an oil filter.
- (4) **Do-it-yourselfer (DIY)** - An individual who removes a used oil filter in the process of an oil change or automotive repair from the engine of a light duty motor vehicle, small utility engine, noncommercial motor vehicle, or farm equipment owned or operated by the individual.
- (5) **Generator** - Person whose activities produce used oil filters. The term does not include do-it-yourselfers.
- (6) **Process** - To prepare a used oil filter for recycling, steel recovery, energy recovery, or proper disposal.
- (7) **Processor** - A person that processes used oil filters generated by another person. The term does not include a generator that consolidates, drains, or crushes used oil filters for off-site recycling or disposal.
- (8) **Store** - To hold in a location for any period.
- (9) **Storage facility** - A location that stores used oil filters before transportation, processing, recycling, or disposal of the filters. The term does not include the location of a generator.
- (10) **Transporter** - A person that transports used oil filters to a location for storage, processing, recycling, or disposal.

(11) **Used oil filter** - Any device that is an integral part of an oil flow system, the primary purpose of which is to remove contaminants from flowing oil contained in the system, and that as a result of use has become contaminated and unsuitable for its original purpose, is removed from service, and contains entrapped used oil. The term does not include a filter attached to the equipment containing the oil flow system. This term continues to apply regardless of prior processing until, but not after, the filter has been burned for steel recovery or energy recovery or it is separated into its component parts.

Adopted December 1, 1999

Effective December 23, 1999

§328.22. Applicability.

(a) This subchapter applies to a used oil filter only if the filter has been determined to be nonhazardous or exempt from being hazardous waste due to draining of used oil per Title 40 Code of Federal Regulations, §261.4(b)(13) (as amended through August 24, 1998), and the filter has not been:

(1) separated into its component parts; or

(2) burned for:

(A) steel recovery; or

(B) energy recovery.

(b) This subchapter does not apply to:

(1) an industrial generator that is:

(A) registered with the agency as an industrial or hazardous waste facility; or

(B) under the waste management authority of a state agency other than the commission.

(2) a do-it-yourselfer.

Adopted December 1, 1999

Effective December 23, 1999

§328.23. General Requirements.

(a) A person may not store, process, or dispose of a used oil filter in a manner that results in the discharge of oil into soil or water.

(b) A person may not knowingly place on land a used oil filter that contains used oil unless the used oil filter is in a container.

(c) A bulk filter container used to store used oil filters:

- (1) must not leak; and
- (2) must be securely closed, waterproof, and in good condition.

(d) A used oil filter may not be intentionally or knowingly placed in or accepted for disposal in a landfill permitted by the commission.

Adopted December 1, 1999

Effective December 23, 1999

§328.24. Registration and Reporting.

(a) A transporter, storage facility, or processor may not store, process, recycle, or dispose of used oil filters unless the person is registered with the agency. These persons must register using an agency form and have a valid registration prior to operation. Mail the form to the Texas Natural Resource Conservation Commission, P. O. Box 13087, Austin, Texas 78711-3087. For further information, call 1-888-TX CRUDE or for forms and publications use Internet address: <http://www.tnrcc.state.tx.us>.

(b) Unless the person is registered with the agency as a storage facility, a person may not store used oil filters:

- (1) that in the aggregate have a volume greater than six 55-gallon drums; or
- (2) in more than one bulk filter container.

(c) Transporters, storage facilities, and processors must renew their registrations by January 25th of every even-numbered year, and must report by January 25th of every even-numbered year, in accordance with paragraphs (1) - (4) of this subsection.

(1) The report must include the number of used oil filters the person transported, stored, or processed in the preceding two calendar years.

(2) Registration renewal and reporting information must be entered on an agency form.

(3) The registration and reporting information must be mailed to the Texas Natural Resource Conservation Commission, P. O. Box 13087, Austin, Texas 78711-3087. For further information, call 1-888-TX CRUDE or for forms and publications use Internet address: <http://www.tnrcc.state.tx.us>.

(4) A transporter, storage facility, or processor who initially registers after December 31, 1999 must, after its initial registration has been active for two years, renew its registration by January 25th of every even-numbered year.

(d) Persons transporting used oil filters may transport up to two 55-gallon containers, or the volumetric equivalent, without registering as a transporter.

(e) A transporter, storage facility, or processor is required to provide evidence of financial responsibility with registration as the executive director deems necessary to assure that the facility has sufficient assets to provide for proper closure. Financial assurance for closure may be demonstrated by using one or more of the following mechanisms: trust funds, surety bonds guaranteeing payment or performance, letters of credit, insurance, or financial test and corporate guarantee. These mechanisms shall be prepared on forms approved by the executive director.

Adopted December 1, 1999

Effective December 23, 1999

§328.25. Shipment Records.

(a) Each shipment of used oil filters must be accompanied by a bill of lading. The bill of lading must demonstrate a transfer of custody of the used oil filters from the shipping facility to the registered transporter, and from the transporter to the registered storage facility or processor. The bill of lading must contain the date of such transfer, the name and physical address of the shipping facility, the name and address of the receiving facility, and the name and address of the transporter, the quantity of used oil filters removed and any other information which the executive director may deem necessary to protect the environmental quality of the State of Texas. The shipping facility must verify the information within the bill of lading, and demonstrate concurrence by the signature of an authorized representative.

(b) A copy of the bill of lading for each shipment of used oil filters must be maintained by the generator of the filters, transporter of the filters, storage facility at which the filters were stored, and processor of the filters for at least three years after the date the filters were transported, stored, or processed.

(c) The copies of bills of lading must be made available for agency personnel to inspect at any reasonable time.

Adopted December 1, 1999

Effective December 23, 1999

§328.26. Limitations on Storage.

(a) A storage facility may not store a used oil filter for more than 120 days.

(b) A transporter may not store a used oil filter for more than ten days.

(c) A processor may not store a used oil filter for more than 30 days before it is processed.

(d) A processor that stores used oil filters in a container shall label each container clearly with the phrase "Used Oil Filters."

Adopted December 1, 1999

Effective December 23, 1999

§328.27. Variances.

(a) The executive director may grant an individual variance to allow:

(1) a generator to store used oil filters in a greater aggregate volume than the volume prescribed in §328.24(b) of this title (relating to Registration and Reporting); or

(2) a person to store used oil filters for a period longer than the period prescribed for that person in §328.26 of this title (relating to Limitations on Storage).

(b) Factors to be considered in determining whether a variance should be granted include but are not limited to, the risk to human health and the environment that is posed by the requested variance. The burden of justifying the need for a variance is on the requestor, and the requestor must submit the information in writing to clearly indicate the issues involved, the reason(s) for the request, and both positive and negative impacts that may result from the granting of the variance. Prior approval of the variance must be obtained before any change is authorized. If a variance is denied, the executive director will provide an explanation of the reason(s) for the denial in a written response to the requestor.

(c) The executive director may not grant a variance under this section for a period longer than two years.

Adopted December 1, 1999

Effective December 23, 1999

§328.28. Spill Prevention and Control.

Each registered storage facility and each facility of a registered processor shall develop a plan to prevent spills and respond to spills in accordance with the federal spill prevention, control, and countermeasure requirements provided by Title 40 Code of Federal Regulations, Part 112 (as amended through July 1, 1998).

Adopted December 1, 1999

Effective December 23, 1999