

Title 68. Health, Safety and Environmental Protection

Chapter 211. Solid Waste Disposal

Part 10. Used Oil Collection Act of 1993

68-211-1001. Short title.

This part shall be known and may be cited as the "Used Oil Collection Act of 1993."

68-211-1002. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Automotive fluid collection center" means a facility, including, without limitation, a fixed location, tank, truck, and container, that accepts used oil or any other automotive fluid from DIYers;

(2) "Automotive oil" means any oil classified for use in an internal combustion engine, crankcase, transmission, gear box or differential for an automobile, bus or truck, lawnmower, or household power equipment;

(3) "Department" means the department of environment and conservation;

(4) "Distributor" means any person who engages in the business in this state of refining, manufacturing, producing, or compounding of automotive oil, and selling or storing the same in this state; and it also means any person who engages in the business in this state of transporting, importing, or causing to be imported, automotive oil into this state, and distributing, storing, or making original sales of the same in this state, for any purpose whatsoever;

(5) "Do-It-Yourselfer (DIYer)" means an individual who removes used oil or any other automotive fluid from the engine of a light duty motor vehicle, small utility engine owned or operated by such individual, noncommercial motor vehicle or farm equipment;

(6) "Fund" means the used oil collection fund created by this part;

(7) "Oil for use with industrial machinery" is limited to any oil specifically purchased for and necessary for the operation of industrial machinery as defined in § 67-6-102;

(8) "Other automotive fluid" means antifreeze, transmission fluid, or power steering fluid;

(9) "Recycle oil" means to prepare used oil for reuse as a petroleum product by reclaiming, reprocessing, energy recovery, re-refining or other means to utilize properly treated used oil as a substitute for petroleum products;

(10) "Used oil" means any oil which has been refined from crude or synthetic oil and, as a result of use, becomes unsuitable for its original purpose due to loss of original properties, or presence of impurities, but which may be suitable for further use and may be economically recyclable. "Used oil" does not include oil filters; and

(11) "Used oil collection center" means an automotive fluid collection center that accepts from DIYers only used oil or used oil in addition to other automotive fluids and that constitutes an approved centralized collection center for used oil.

68-211-1003. Legislative intent and purpose.

(a) It is the intent of the general assembly to reduce the amount of improperly disposed used oil and other automotive fluids by providing incentives to increase the number of collection facilities for used oil and other automotive fluids.

(b) It is the purpose of this part to provide for:

(1) The establishment and maintenance of automotive fluid collection centers and programs that support the collection and recycling of used oil and other automotive fluids;

(2) The development of management standards for automotive fluid collection centers and used oil collection centers, transporters, and recyclers; and

(3) The promotion of educational programs to encourage the public to dispose of used oil and other automotive fluids properly.

68-211-1004. Used oil collection fund.

(a) There is established a general fund reserve to be allocated by the general appropriations act which shall be known as the "used oil collection fund." Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this part, and shall not revert to the general fund on any June 30. Any excess revenues or interest earned by such revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years. Any appropriation from such reserve shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years. All fees, civil penalties, and fines collected pursuant to this part shall be deposited in the fund.

(b) The department may apply for, request, solicit, contract for, receive, and accept gifts, grants, donations, and other assistance from any source to carry out its powers and duties under this part. Any such monetary gifts, grants or donations shall be deposited in the fund.

68-211-1005. Toll-free telephone number of used oil and other automotive fluids -- Use of moneys in fund -- Personnel.

The fund may be used as follows:

(1) A toll-free telephone number shall be established by the department and maintained for the purpose of disseminating information concerning the locations and operating hours of automotive fluid collection centers within the state; information concerning the availability, dates and requirements for collection where available; information regarding alternate locations that accept commercial used oil and other automotive fluids; and other information regarding used oil and other automotive fluids.

(2) The department may award grants, subsidies and/or loans to municipalities, counties and counties having a metropolitan form of government to establish and operate automotive fluid collection centers at publicly owned facilities or other suitable public or private locations; and provide technical assistance to persons who organize such programs.

(3) The department may award grants or subsidies to local governments to purchase equipment which burns used oil as fuel. In awarding such grants or subsidies, priority shall be given to local governments who establish used oil collection centers.

(4) The department shall provide technical assistance to and reimburse public or private operators of used oil collection centers to dilute, decontaminate or dispose of used oil which has been contaminated by any substance which would require such contaminated oil to be disposed of as a hazardous waste in accordance with chapter 212 of this title if such dilution, decontamination or disposal is approved by the department prior to such dilution, decontamination or disposal. However, such reimbursement shall only be awarded to operators who have complied with management standards and rules and regulations of the department and shall be limited to no more than eight thousand dollars (\$8,000) per year per used oil collection center. No reimbursement shall be made to any operator who is disqualified pursuant to rules or regulations of the department.

(5) The department may award grants to develop and implement educational programs to encourage proper handling, disposal and recycling of used oil and other automotive fluids.

(6) The department may award grants to develop and implement programs to provide direct incentives to DIYers to properly handle and dispose of used oil and other automotive fluids.

(7) The department may award grants to develop and implement programs to provide direct incentives to for-profit and not-for-profit entities to establish and operate automotive fluid collection centers.

(8) The department shall provide signs in accordance with § 68-211-1017.

(9) The department may hire personnel necessary to implement this part and expend moneys in the fund for other necessary administrative costs; provided, that only direct costs of administration and implementation of this part shall be expended from the fund and only that portion of salaries and benefits of personnel which are directly utilized to implement and administer this part shall be expended from the fund.

68-211-1006. Fee on sales of automotive oil -- Rules and regulations.

(a) There is levied on every distributor of automotive oil a two cent (2cent(s)) per quart fee on the sale of automotive oil to fund the used oil collection fund.

(b) The fee shall apply only to sales of automotive oil, as herein defined, in packaged form. The use of automotive oil by a distributor shall constitute a sale for the purposes of this section unless that use is exempted under other provisions of this part. It is the intention of this part that the fee shall be due only once on any given quantity of automotive oil.

(c) The fee established in this part shall be collected by the department of revenue and deposited to the used oil collection fund. Of the funds received from this fee, for a period of three (3) years starting July 1, 2009, the state shall credit an amount not to exceed four hundred thousand dollars (\$400,000) to the general fund annually, if the annual general appropriations act so provides, and the remainder shall be credited to the used oil collection fund. On July 1, 2012, and thereafter, all of the funds received from this fee shall be credited to the used oil collection fund.

(d) The commissioner of revenue is authorized to promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to implement, administer and enforce this section and §§ 68-211-1007 -- 68-211-1010.

68-211-1007. Exemptions from fees on sales of automotive oil -- Certification.

(a) The fee on the sale of automotive oil shall not be imposed on automotive oil:

(1) Exported from this state by a distributor, or sold by a distributor to a wholesaler or retailer who certifies to the distributor, in accordance with subsection (b), that the automotive oil will be exported from this state by the wholesaler or retailer, or resold to a user who will export the automotive oil from this state;

(2) Sold by a distributor to a wholesaler, retailer, or user who certifies to the distributor, in accordance with subsection (b), that the oil is oil for use with industrial machinery.

(b) The certification required in this section shall be in writing, and shall include an acknowledgement on the part of the person giving certification that such person shall be liable to the department of revenue for the fee imposed under § 68-211-1008, if the automotive oil is not sold or used in an exempt manner. Where a wholesaler or retailer certifies that the automotive oil is exempt from the fee on the basis of a subsequent resale to a person who will export the automotive oil, or use the automotive oil for an exempt purpose, the wholesaler or retailer must also obtain a certification from the purchaser that the automotive oil will be exported or used for an exempt purpose.

(c) Good faith acceptance of a certification by a distributor, wholesaler or retailer shall relieve the distributor, wholesaler or retailer from any liability to the department of revenue for the fee otherwise applicable under § 68-211-1008. If a person certifies that the automotive oil will be sold or used in an exempt manner, and the automotive oil is subsequently resold or used in a

manner that does not qualify as exempt, the person making the resale or putting the automotive oil to use shall be liable to the department of revenue for the fee.

68-211-1008. Registration of automotive oil distributors.

Each distributor shall register for each place of business with the commissioner of revenue upon forms prescribed and furnished by such commissioner.

68-211-1009. Payment of fees -- Returns.

(a) The fee imposed by this part shall be payable for quarterly periods as follows:

- (1) January 1 through March 31;
- (2) April 1 through June 30;
- (3) July 1 through September 30; and
- (4) October 1 through December 31.

(b) It is the duty of all distributors of automotive oil on or before the twenty-fifth day of the month following the close of the periods set out above to transmit to the commissioner of revenue, upon forms prescribed and furnished by such commissioner, returns showing such information as such commissioner considers pertinent to the administration of this part. A separate return shall be filed for each separate location or business.

(c) The return shall be accompanied by payment of all fees due.

(d) Failure to file a return and/or pay the fee due under this part prior to the date provided by this section shall cause the fee to become delinquent and subject to interest and penalty as provided in title 67, chapter 1, part 8.

68-211-1010. Deduction granted to distributors paying fees.

For the purposes of compensating the distributor in accounting for and remitting the fee, a distributor shall be allowed a deduction of the fee due, reported and paid to the department of revenue in the amount of two percent (2%) of the amount due on the report, but such deduction shall be limited to fifty dollars (\$50.00) per report. No deduction from the fee shall be allowed if any such report or payment of the fee is delinquent.

68-211-1011. Used oil collection centers.

(a) (1) All used oil collection centers must meet management standards established by the department and must be attended during hours of operation of such centers. Used oil collection centers shall establish a maximum amount of used oil that such centers will accept from any person in any one (1) day. Such maximum shall be at least five gallons (5 gal.) but no more than

ten gallons (10 gal.).

(2) Used oil collection centers shall transfer used oil only to certified transporters and shall maintain records of all volumes of material collected on an annual basis, including the identity of the hauler and the name and location of the recycling facility to which such oil is transported.

(b) Used oil shall not be listed as a hazardous waste or hazardous substance by this state or any subdivision of this state.

(c) An automotive fluid collection center that accepts any other automotive fluid shall meet any management standards established by the department for other automotive fluids pursuant to § 68-211-1013(b).

68-211-1012. Administration and enforcement.

(a) The commissioner of environment and conservation shall administer and enforce this part.

(b) The commissioner may:

(1) Issue orders for correction to enforce this part and rules and regulations promulgated pursuant to this part in the manner specified in § 68-211-112 and such orders may be reviewed in the manner specified in § 68-211-113;

(2) Institute proceedings to enjoin violations of this part, rules and regulations promulgated pursuant to this part or orders issued pursuant to subdivision (b)(1) in the manner specified in § 68-211-115; and

(3) Assess civil penalties against any person who violates or fails to comply with this part or rules and regulations promulgated pursuant to this part in the manner specified in § 68-211-117.

68-211-1013. Development of management standard.

(a) The department shall develop management standards for used oil collection centers that require, as a minimum, that such centers:

(1) Accept uncontaminated used oil from the general public in quantities up to five gallons (5 gal.), per person, per day;

(2) Participate in the state toll-free telephone information system established by the department pursuant to § 68-211-1005; and

(3) Demonstrate that it complies with all state and federal regulations concerning tank structure and integrity, maintenance, supervision, employee training and housekeeping.

(b) The department may develop management standards for the collection of other automotive

fluids by automotive fluid collection centers if the department determines that the standards will promote the health and welfare of the public.

68-211-1014. Certification of used oil transporters -- Annual reports.

(a) The department shall develop certification procedures for transporters accepting used oil from public, private and commercial collection facilities. Such certification shall include:

(1) A requirement that the transporter demonstrates familiarity with state regulations and proper used oil management rules;

(2) A requirement that the equipment used in such transportation is in good mechanical condition and is suitable for the transportation of used oil;

(3) A requirement of proof of liability insurance or other means of financial responsibility, as established by the department;

(4) A showing that all recordkeeping and reporting practices are in compliance with all applicable regulations; and

(5) Documentation that all used oil is delivered to qualified customers or certified recyclers. Such documentation shall include the names and addresses of such customers and recyclers.

(b) The department shall require that transporters file an annual report which specifies the type and quantity of used oil transported, collected and recycled during the preceding year.

(c) Any person who annually transports over public highways more than one thousand gallons (1,000 gal.) of used oil shall be a certified transporter. Persons who transport one thousand gallons (1,000 gal.) or less may also apply to the department for certification as a transporter.

68-211-1015. Development of management standards for collection and recycling.

(a) The department shall develop management standards for used oil recycling and collection. Such standards shall comply with all rules and regulations of the federal environmental protection agency but shall not exceed such rules and regulations.

(b) The underground storage tanks and solid waste disposal control board is authorized to promulgate rules and regulations to effectuate the purposes of this part. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

68-211-1016. Prohibited acts -- Penalty.

(a) Other than as provided for in a state or federal discharge permit, no person shall:

(1) Discharge used oil into sewers, drainage systems, septic tanks, surface waters,

groundwaters, water courses or marine waters;

(2) Collect, store, recycle, use or dispose of used oil in any manner which endangers the public health or welfare;

(3) Mix or commingle used oil with hazardous waste or polychlorinated biphenyls (PCBs) that make it unsuitable for recycling or beneficial use; or

(4) Utilize used oil for road oiling, dust control, weed abatement or similar uses which have the potential to cause harm to the environment.

(b) Any person who:

(1) Fails to comply with any provision of this part or any rule adopted pursuant to this part;

(2) Fails to file any reports, records or documents required pursuant to this part;

(3) Fails, neglects, or refuses to comply with any order issued pursuant to this part; or

(4) Knowingly gives or causes to be given any false information in any reports, records, or documents required pursuant to this part;

commits a Class C misdemeanor. Each day such violation continues constitutes a separate offense.

68-211-1017. Notice to public concerning proper oil collection and recycling -- Signs.

(a) (1) A retailer of automotive oil that is not a used oil collection center shall post and maintain on the retailer's premises, at or near the point of the automotive oil display or sale, a durable and legible sign (minimum size of eight and one-half by eleven inches (8 1/2" x 11")) that informs the public of the importance of the proper collection and disposal of used oil from DIYers and that contains the toll-free number established by the department pursuant to § 68-211-1005. The department shall design and provide the signs upon request.

(2) A retailer of any other automotive fluid may request from the department a sign to post on the retailer's premises that informs the public of the importance of the proper collection and disposal of other automotive fluids from DIYers and that contains the toll-free number established by the department pursuant to § 68-211-1005. The department shall design and provide the signs upon request.

(b) The department shall, upon the request of:

(1) A used oil collection center, design and provide a sign that identifies used oil collection centers; and

(2) An automotive fluid collection center that accepts other automotive fluids, design and

provide a sign that identifies automotive fluid collection centers.

(c) The department may approve signs for display by retailers or collection centers that are submitted for such approval and, if approved, such signs may be displayed in lieu of signs designed by the department.

(d) Any sign provided or approved by the department pursuant to subsection (a), (b), or (c) shall be exempt from any sign regulation by local government. Such signs shall not be included as part of any maximum sign allowance pursuant to any local government regulation.

68-211-1018. Release -- Cleanup.

Upon detection of a release of used oil or any other automotive fluid to the environment at an automotive fluid collection center and notification to the department, the following cleanup steps must be performed:

(1) Stop the release;

(2) Contain the released used oil or other automotive fluid;

(3) Clean up and manage properly the released used oil or other automotive fluid and other materials; and

(4) If necessary to prevent future releases, repair or replace any leaking used oil or other automotive fluid storage containers or tanks prior to returning them to service.

68-211-1019. Used oil filters.

(a) Used oil filters shall be:

(1) Punctured and hot-drained for a minimum of twelve (12) hours;

(2) Punctured and cold-drained for a minimum of twenty-four (24) hours;

(3) Drained and crushed; or

(4) Prepared for disposal as otherwise provided by rules and regulations promulgated by the underground storage tanks and solid waste disposal control board.

(b) Subsequent to such draining, draining and crushing or other preparation for disposal, such used oil filters shall be recycled or disposed of in accordance with this chapter and rules and regulations promulgated pursuant to this chapter.