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1320.	Treated Hazardous Waste Used as Dust Suppressant	FEB 28, 2019
1321.	Decharacterized RCRA Waste - Manifesting and LDR Reporting	ENCORE MAR 7, 2019
1322.	Decharacterized Hazardous Waste Listed Solely for Non-Toxic Characteristics	ENCORE MAR 14, 2019
1323.	Decharacterized Wastes, ≤90-Day Accumulation Time Limits and LDR Storage Prohibition	ENCORE MAR 21, 2019
1324.	Decharacterized Wastes and the LDR Dilution Prohibition	ENCORE MAR 28, 2019
1325.	PCB Decontamination Standard with No Decontamination Performed	ENCORE APR 4, 2019
1326.	PCB Manifest Relief a.k.a., When is a PCB Manifest Not Required?	ENCORE APR 11, 2019
1327.	PCB Manifest Relief a.k.a., When is a PCB Manifest Not Required? – The Sequel	ENCORE APR 18, 2019
1328.	PCB Concentrations and Micrograms per Centimeters Squared (µg/cm ²)	ENCORE APR 25, 2019
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1331.	Washington State Used Oil and Mixtures with Other Materials	ENCORE MAY 16, 2019
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1333.	Printed Circuit Board Recycling – Shredded vs. Whole	ENCORE MAY 30, 2019
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1338.	Unused Paraformaldehyde - U Listed Hazardous Waste or Not?	ENCORE JUL 3, 2019
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1349.	Regulatory Status of PCB Remediation Wastes Disposed Prior to April 18, 1978	ENCORE SEP 19, 2019
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1351.	PCB Waste Regulation and April 18, 1978 vs. July 2, 1979	ENCORE OCT 3, 2019
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TWO MINUTE TRAINING

TO: CH2M HILL PLATEAU REMEDIATION COMPANY

FROM: PAUL W. MARTIN, RCRA Subject Matter Expert
CHPRC Environmental Protection, Hanford, WA

SUBJECT: USED OIL AND THE REBUTTABLE PRESUMPTION

DATE: FEBRUARY 13, 2020

<u>CHPRC Projects</u>	<u>CH PRC - Env. Protection</u>	<u>MSA</u>	<u>Hanford Laboratories</u>	<u>Other Hanford Contractors</u>	<u>Other Hanford Contractors</u>
Richard Austin Tania Bates Rene Catlow Richard Clinton Larry Cole Laura Cusack John Dent Lorna Dittmer Stuart Hildreth Mike Jennings Stephanie Johansen Sasa Kosjerina Melvin Lakes Richard Lipinski Stuart Mortensen Dave Richards Phil Sheely Connie Simiele Jeff Westcott	Jeff Bramson Bob Bullock Frank Carleo Danielle Collins Bill Cox Jeanne Elkins Ryan Fisher Jonathan Fullmer Barry Lawrence Diane Leist Mitch Marrott Stewart McMahand Brian Mitcheltree Anthony Nagel Linda Petersen Sean Sexton Dave Shea Kat Thompson Wayne Toebe Eric Trotta Daniel Turlington Dave Watson	Brett Barnes Michael Carlson Mike Demiter Kip George Jerry Cammann Jeff Ehlis Garin Erickson Panfilo Gonzalez Jr. Dashia Huff Mark Kamberg Jon McKibben Saul Martinez Matt Mills Carly Nelson Michelle Oates Eric Pennala Jon Perry Christina Robison Christian Seavoy David Shaw John Skogleie Lana Strickling Greg Sullivan	(TBD) <u>DOE RL, ORP, WIPP</u> Mary Beth Burandt Duane Carter Al Farabee Tony McKarns	Bill Bachmann Dean Baker Scott Baker Lucinda Borneman Paul Crane Tina Crane Ron Del Mar John Dorian Mark Ellefson Darrin Faulk Rob Gregory James Hamilton Andy Hobbs Ryan Johnson Megan Lerchen Mike Lowery Michael Madison Terri Mars Cary Martin Grant McCalmant Steve Metzger Tony Miskho Tom Moon Chuck Mulkey Kirk Peterson	Dan Saueressig Joelle Moss Glen Triner Greg Varljen Julie Waddoups Jay Warwick Ted Wooley

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TWO MINUTE TRAINING

SUBJECT: Used Oil and the Rebuttable Presumption

Q: A used oil transporter has arrived at a used oil generator site to pick up used oil for recycling. Prior to pumping the generator's used oil into its tanker, the transporter conducts a field test to determine a rough estimate of halogen content, i.e., more or less than 1,000 ppm halogens. The used oil generator never tests their used oil and is curious of the results. Concerning the halogen test for used oil, who is required to conduct this test - the used oil generator, the collection center/aggregation point, the transporter/transfer facility, the processor/re-refiner, the burner or the used oil fuel marketer?

A: The halogen test for used oil is driven by [40 CFR 279.10\(b\)\(1\)\(ii\)](#), the rebuttable presumption for used oil. The rebuttable presumption assumes that used oil containing more than 1,000 ppm total halogens has been mixed with a chlorinated hazardous waste listed in [40 CFR 261, Subpart D](#), i.e., F, K, U and P listed chlorinated hazardous wastes. If a generator's used oil is determined to be more than 1,000 ppm halogens, the generator may rebut the presumption that the used oil has been mixed with a chlorinated hazardous waste. The generator may use knowledge such as demonstrating that the halogen content is naturally occurring in the used oil process and does not involve chlorinated listed hazardous wastes. Alternatively, the used oil generator can test the used oil with an analytical test that is more precise than a field test. The used oil generator could use other methods to rebut the presumption and those methods would be determined on a case-by-case, site-specific basis. If the used oil generator cannot rebut the presumption, the mixture of used oil must be managed as a hazardous waste.

Concerning which used oil entity must conduct the halogen test, a search of [40 CFR 279](#), *Standards for the Management of Used Oil*, for the phrases "testing the used oil" and "halogen content", and a review of EPA used oil guidance ([905-R03-005](#)) indicate the following used oil entities must test for halogens:

1. The transporter/transfer facility,
2. The process/re-refiner,
3. The burner, and,
4. The used oil fuel marketer.

The used oil generator, assuming they also are not one of the four entities, is not required to test for halogens. There is no prohibition preventing the used oil generator from testing their used oil for halogens to avoid surprises when the transporter conducts their field test, but there is no requirement for the used oil generator to test for halogens.

SUMMARY:

- Used oil is subject to the rebuttable presumption that a used oil with more than 1,000 ppm halogens is presumed to have been mixed with a chlorinated listed hazardous waste.
- The used oil generator is not required to test for halogens, but does have the option to test the used oil or apply knowledge in order to actively or proactively rebut the presumption.
- The used oil transporter, processor/refiner, burner and marketer are required to test used oil for halogens.

Excerpts from 40 CFR 279 and the [September 10, 1992, Federal Register](#) are attached to the e-mail. If you have any questions, please contact me at Paul_W_Martin@rl.gov or at (509) 376-6620.

FROM: Paul W. Martin

DATE: 02/13/2020

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TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: Used Oil and the Rebuttable Presumption

40 CFR §279.10 Applicability

(b) *Mixtures of used oil and hazardous waste-*

(1) *Listed hazardous waste.*

(ii) *Rebuttable presumption for used oil.* Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in subpart D of part 261 of this chapter. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in appendix VIII of part 261 of this chapter).

(A) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in §279.24(c), to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

(B) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

40 CFR §279.44 Rebuttable presumption for used oil

(a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of §279.10(b)(1)(ii), the **used oil transporter** must determine whether the total halogen content of used oil being transported or stored at a transfer facility is above or below 1,000 ppm.

(b) The transporter must make this determination by:

(1) Testing the used oil; or

(2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: Used Oil and the Rebuttable Presumption

40 CFR §279.53 Rebuttable presumption for used oil

(a) To ensure that used oil managed at a processing/re-refining facility is not hazardous waste under the rebuttable presumption of §279.10(b)(1)(ii), the owner or operator of a **used oil processing/re-refining facility** must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

(b) The owner or operator must make this determination by:

- (1) Testing the used oil; or
- (2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

40 CFR 279.63 Rebuttable presumption for used oil

(a) To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of §279.10(b)(1)(ii), a **used oil burner** must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

(b) The used oil burner must determine if the used oil contains above or below 1,000 ppm total halogens by:

- (1) Testing the used oil;
- (2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or
- (3) If the used oil has been received from a processor/re-refiner subject to regulation under subpart F of this part, using information provided by the processor/re-refiner.

40 CFR §279.70 Applicability (*Marketers*)

(c) Any person subject to the requirements of this Subpart must also comply with one of the following:

- (1) Subpart C of this part - Standards for Used Oil Generators;
- (2) Subpart E of this part - Standards for Used Oil Transporters and Transfer Facilities;
- (3) Subpart F of this part - Standards for Used Oil Processors and Re-refiners; or
- (4) Subpart G of this part - Standards for Used Oil Burners who Burn Off-Specification Used Oil for Energy Recovery.

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TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: Used Oil and the Rebuttable Presumption

Federal Register / Vol. 57, No. 176 / Thursday, September 10, 1992 / Rules and Regulations 41579

C. Rebuttable Presumption of Mixing for Used Oil

The rebuttable presumption currently codified at 40 CFR 266.40(c) *[deleted]* provides that used oil containing more than 1,000 ppm of total halogens is presumed to be mixed with chlorinated hazardous waste listed in 40 CFR part 261, subpart D. Persons may rebut the presumption by demonstrating that the used oil has not been mixed with hazardous waste. EPA does not presume mixing has occurred if the used oil does not contain significant concentrations of chlorinated hazardous constituents listed in appendix VIII of part 261.

In 1985, EPA promulgated the used oil fuel specification. EPA set the specification limit for total halogens at 4,000 ppm. EPA set this specification limit for total halogens based upon emission standards modelling results. EPA also promulgated the rebuttable presumption of mixing in 1985. The rebuttable presumption limit for halogen content was set at 1,000 ppm, based upon probable mixing scenarios. The Agency believes (due to enforcement experience) that used oils exhibiting a total halogen level greater than 1,000 ppm have most likely been mixed with chlorinated hazardous wastes.

The Agency wants to discourage all mixing of used oils and hazardous wastes. However, EPA understands that some used oils (e.g., metalworking oils with chlorinated additives) may exceed the 1,000 ppm total halogen limit without having been mixed with hazardous waste. In these cases, the generator can rebut the presumption of mixing by documenting the source of the halogens and the used oil is subject to the part 279 management standards and is not subject to the subtitle C management system. However, even if the presumption of mixing is rebutted, if the total halogen level in the used oil exceeds 4,000 ppm, the used oil will not meet the used oil specification limit for total halogens. Therefore, if the used oil is to be burned for energy recovery, and the used oil will have to undergo further processing to meet the used oil fuel specification (to lower the total halogen level) or the used oil must be burned as off-specification used oil fuel (in which case the used oil fuel handlers must be in compliance with the requirements of part 279, subpart G). In cases where the used oil generator cannot rebut the presumption of mixing, the used oil generator must manage the mixture of used oil and hazardous waste as a hazardous waste (in compliance with all applicable Subtitle C management requirements).

In the 1991 Supplemental Notice, EPA proposed to apply the rebuttable presumption for used oil fuels to all used oils. Commenters favored extending the applicability of the rebuttable presumption for used oil fuels to all used oils that are recycled in any manner. EPA has decided to expand the presumption to cover all used oils (with two exceptions, discussed below) and has amended 40 CFR 261.3 to make the provision applicable to all used oils. Under this presumption, used oils containing more than 1000 ppm total halogens are presumed to have been mixed with a halogenated hazardous waste and therefore must be managed as hazardous waste. Used oil handlers may rebut this presumption by demonstrating that the used oil does not contain hazardous waste. EPA is recommending the use of SW-846 method 8010 in rebutting the presumption of mixing.



Federal Register for
September 10, 1992

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