

<u>SUBJECT</u>		<u>DATE</u>
1394. RCRA Empty vs. DOT Empty	ENCORE	JUL 30, 2020
1395. RCRA Empty vs. DOT Empty II	ENCORE	AUG 6, 2020
1396. Empty Containers and the "Empty" Label	ENCORE	AUG 13, 2020
1397. Exceptions to Free Liquids in Landfills Prohibition	ENCORE	AUG 20, 2020
1398. Dust Suppression in Landfills with Nonhazardous Liquids	ENCORE	AUG 27, 2020
1399. Treated Hazardous Wastes Used as Dust Suppressant	ENCORE	SEP 3, 2020
1400. Regulatory Status of Used Oil Mixed with Diesel Fuel	ENCORE	SEP 10, 2020

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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:** REGULATORY STATUS OF USED OIL MIXED WITH DIESEL FUEL

**DATE:** SEPTEMBER 10, 2020

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## TWO MINUTE TRAINING

**SUBJECT:** Regulatory Status of Used Oil Mixed with Diesel Fuel

**Q:** A customer has generated a one-gallon container of used oil appropriately marked as "Used Oil" and managed compliantly per [WAC 173-303-515](#), "Standards for the management of used oil", [[40 CFR 279](#)]. In an effort to repurpose the used oil, the company mechanic suggests adding the used oil to product diesel fuel for burning as fuel in company diesel trucks. Does the customer say, "Yes", or does the customer say, "You've got to be kidding!"

**A:** Per WAC 173-303-515(3), "Applicability", it references 40 CFR 279 except for [40 CFR 279.10\(b\)\(2\)](#) and (3). Per 40 CFR 279.10(d), "Mixtures of used oil with products", paragraph (2), it states:

*"Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this part (40 CFR 279) once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of subpart C of this part (Standards for Used Oil Generators)."*

Since the customer is the generator of the used oil, and the mixing with diesel fuel will occur on the customer's site and used in the customer's own company vehicles, the used oil/diesel fuel mixture will no longer be subject to used oil regulations. Until the mixing occurs, the used oil must be managed per the used oil requirements.

Therefore, the customer can say, "YES!" And this activity makes sense in terms of one of the goals of the Resource Conservation and Recovery Act (RCRA) which is to conserve resources, e.g., the burning of used oil saves product diesel fuel.

### SUMMARY:

- Used oil is subject to the "Standards for the management of used oil" at WAC 173-303-515.
- The customer can mixed used oil onsite with diesel fuel and burn the mixture in company vehicles and the mixture would be product and no longer regulated as a used oil.
- The customer can say, "YES!"

Excerpts from WAC 173-303-515 and 40 CFR 270 are attached to the e-mail. If you have any questions, please contact me at [Paul W. Martin@rl.gov](mailto:Paul_W_Martin@rl.gov) or at (509) 376-6620.

**FROM:** Paul W. Martin

**DATE:** 9/10/2020

**FILE:** 2MT\2020\091020.rtf

**PG:** 1

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## TWO MINUTE TRAINING – ATTACHMENT

**SUBJECT:** Regulatory Status of Used Oil Mixed with Diesel Fuel

### WAC 173-303-515 Standards for the management of used oil.

(1) **Purpose.** The purpose of this section is to provide used oil management standards for generators, transporters, collection centers, aggregation points, transfer facilities, processors, and re-refiners, burners, and marketers of used oil.

(2) **Definitions.** In addition to the terms used in this chapter, the definitions of 40 C.F.R. Part 279 are incorporated by reference when managing used oil under this section. The term "hazardous waste" used in 40 C.F.R. Part 279 means "dangerous waste" as defined in WAC 173-303-040.

(3) **Applicability.** This section identifies those materials subject to regulation as used oil. For the purpose of this section, the applicability statements of 40 C.F.R. Part 279.10 are incorporated by reference, except 40 C.F.R. Part 279.10 (b)(2) and (3), and as modified below. In addition, the test methods at WAC 173-303-110(3) must be used.

Materials containing or otherwise contaminated with or derived from used oil: The term "materials" used in 40 C.F.R. Part 279.10 does not include dangerous waste.

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### 40 CFR §279.10 Applicability

This section identifies those materials which are subject to regulation as used oil under this part. This section also identifies some materials that are not subject to regulation as used oil under this part, and indicates whether these materials may be subject to regulation as hazardous waste under parts 260 through 266, 268, 270, and 124 of this chapter.

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

##### (1) *Listed hazardous waste.*

(i) Mixtures of used oil and hazardous waste that is listed in subpart D of part 261 of this chapter are subject to regulation as hazardous waste under parts 260 through 266, 268, 270, and 124 of this chapter, rather than as used oil under this part.

(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).

## TWO MINUTE TRAINING – ATTACHMENT

**SUBJECT:** Regulatory Status of Used Oil Mixed with Diesel Fuel

### 40 CFR §279.10 Applicability (continued)

(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.

*(Not adopted by the Washington Department of Ecology. Your state may vary.)*

~~(2) Characteristic hazardous waste. Mixtures of used oil and hazardous waste that solely exhibit one or more of the hazardous waste characteristics identified in subpart C of part 261 of this chapter and mixtures of used oil and hazardous waste that is listed in subpart D solely because it exhibits one or more of the characteristics of hazardous waste identified in subpart C are subject to:~~

~~(i) Except as provided in paragraph (b)(2)(iii) of this section, regulation as hazardous waste under parts 260 through 266, 268, 270, and 124 of this chapter rather than as used oil under this part, if the resultant mixture exhibits any characteristics of hazardous waste identified in subpart C of part 261 of this chapter; or~~

~~(ii) Except as specified in §279.10(b)(2)(iii) regulation as used oil under this part, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under subpart C of part 261 of this chapter.~~

~~(iii) Regulation as used oil under this part, if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under §261.21 of this chapter.~~

~~(3) Very small quantity generator hazardous waste. Mixtures of used oil and very small quantity generator hazardous waste regulated under §262.14 of this chapter are subject to regulation as used oil under this part.~~

## TWO MINUTE TRAINING – ATTACHMENT

**SUBJECT:** Regulatory Status of Used Oil Mixed with Diesel Fuel

### 40 CFR §279.10 Applicability (continued)

#### *(c) Materials containing or otherwise contaminated with used oil.*

(1) Except as provided in paragraph (c)(2) of this section, materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material:

(i) Are not used oil and thus not subject to this part, and

(ii) If applicable are subject to the hazardous waste regulations of parts 124, 260 through 266, 268, and 270 of this chapter.

(2) Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this part.

(3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this part.

#### *(d) Mixtures of used oil with products.*

(1) Except as provided in paragraph (d)(2) of this section, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this part.

(2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of subpart C of this part.