

## Chapter XXIV Used Oil

### A. GENERAL.

1. Before used oil is turned in to the DRMO, the generating activity is required to properly identify the hazardous components. A determination must be made that the used oil is either Hazardous Waste (HW) or Hazardous Material (HM). DRMOs overseas will determine whether used oil is HW by consulting the definitions of HW and used oil in their Final Governing Standards (FGSs), and process the used oil within the FGS guidelines. DRMOs overseas will require the submission of Hazardous Waste Profile Sheets (HWPS) in order to document the classification of their used oil.

2. Generating activities must provide a DRMS Form 1930, Hazardous Waste Profile Sheet (HWPS) or substitute form for the turn-in of HW and used HM. This requirement is based on the definition of a hazardous waste when discarded, as provided in 40 CFR Part 261 (DoD 4160.21 M, Chapter 10, Paragraph D2a(1) and (2) and revised by DRMS Letter No. 91-6.) However, because used oil is uniquely regulated under 40 CFR Part 279, the information required for turn-in depends on the intended use of the oil, i.e., whether it is recycled, burned for energy recovery, or discarded. The following provisions apply to used oil:

a. Used oil burned for energy recovery, is exempt from regulation as a hazardous waste fuel under 40 CFR Part 266 (subpart H) when it is a HW solely because it exhibits a characteristic of HW as identified in 40 CFR 261.20. This used oil is subject to regulation under 40 CFR 279.10.

b. When used oil exhibits a characteristic of HW, is mixed with a listed HW, or has a total halogen count of more than 1,000 ppm, and is disposed of by means other than recycling, it be-

comes a HW and is subject to RCRA HW regulations.

3. The following applies to mixtures:

a. Used oil mixed with a listed HW is subject to RCRA HW regulations regardless of whether it is recycled or sent to a disposal facility (40 CFR 279.10(b)(1)).

b. If a used oil mixture does not exhibit any characteristic of a HW, it is under 40 CFR 279.10(b)(2).

c. Used oil mixed with a waste which is HW solely because it exhibits the characteristic of ignitability, but the mixture does not exhibit the characteristic of ignitability, is also regulated as used oil (40 CFR 279.10(b)(2)(iii)).

4. When it is determined that a HWPS is required, the generating activity has the option to employ user knowledge and ensure supporting documentation is attached. To avoid costly sampling/analysis the generating activity may use composite sampling as a cost-saving alternative.

5. The EPA Standard for the Management of Used Oil and DRMS procedures for compliance with 40 CFR Part 279 are provided at Enclosure 1. These management standards for used oil were effective 8 Mar 93 in states without final RCRA authorization. These states include: Alaska, Hawaii, and Iowa. States with RCRA authorization were required to adopt equivalent or more stringent standards by 1 Jul 94; if a change in state law is needed the deadline date was Jul 95. DRMOs should check with their state regulatory agency to determine the status of the used oil management standards where they are located.

## B. IDENTIFICATION OF USED OIL FOR TURN-IN.

1. To assure used oil is properly identified, ask the generating activity the following sequence of questions. If the generating activity cannot answer these questions, he cannot properly identify the hazardous components of his turn-in and the property should be rejected.

a. Has the used oil been mixed with a listed HW as specified in 40 CFR 261.31, 261.32, 261.33, or host country regulations?

(1) If the answer is yes, the receipt should be treated as HW (Reference: DRMS-I 6050.1, Chapter XI, Paragraph B1 and all requirements of DoD 4160.21-M, Chapter 10).

(2) If the answer is no, proceed to the next question.

b. Has the used oil been mixed with a characteristic waste as specified in 40 CFR 261.20 or a HW listed in 40 CFR 261.31, 261.32, 261.33 (solely because it exhibits a characteristic of HW) or a HW based on host country regulations?

(1) If the answer is yes, the oil should be treated as a HW, if the resultant mixture exhibits any of the characteristics of HW as specified in 40 CFR 261.20;

(2) If the answer is yes, but the resultant mixture does not exhibit any of the characteristics of HW as identified in 40 CFR 261.20, it is regulated as used oil;

(3) If the answer is yes, but the mixture is a HW solely because it exhibits the characteristic of ignitability, and the resultant mixture does not exhibit the characteristic of ignitability, it is regulated as used oil.

**NOTE:** For examples see Enclosure 1 to this chapter.

(4) If the answer is no, proceed to the next question.

c. Does the used oil have total halogens greater than 1,000 ppm?

(1) If the answer is yes, the receipt should be treated as HW unless the generating activity provides documentation listed in 40 CFR Part 279.10(b)(1)(ii) to rebut this assumption. Otherwise, the requirements of DoD 4160.21-M, Chapter 10 apply.

(2) If the answer is no, receive as HM. Please note the following:

- When used oil is RTDS for recycling (other than burned for energy recovery), it is subject to 40 CFR 261.6(a)(4) and 40 CFR 279.

- When used oil is RTDS for energy recovery, it is defined as a used oil fuel and is subject to the requirements of 40 CFR 279, Subpart G. Refer to DRMS-I 4160.14 Volume V for information on selling used oil.

d. Information needed from the generating activity to process used oil for RTDS consists only of the following:

(1) **Flash point.** If the flash point is less than 140 degrees Fahrenheit, we need to know why; i.e., a low flash point may indicate that the used oil has been mixed with a HW. If the generating activity cannot give you documentation to show why the flash point is low, you should treat the used oil as HW and request a HWPS.

(2) **Total halogens** (see paragraphs B1c(1) and (2) above).

(3) A waste analysis or other information may be useful for RTDS, but should not be a turn-in requirement.

## C. REQUIREMENTS FOR MARKETERS OF USED OIL.

1. **Definition of Marketer** (40 CFR 279.1).

a. Marketers include:

(1) Generating activities who sell used oil directly to a burner.

(2) Persons who receive used oil from a generating activity and produce, process, blend used oil fuel.

(3) Persons who distribute used oil fuel.

b. Marketers do not include used oil generating activities and collectors unless they market it directly to a burner.

c. In processing used oil, DRMS would not usually meet the definition of a marketer; we would, however, be considered a marketer in the event we sold used oil directly to a burner.

2. The requirements of 40 CFR 279.70 apply only to marketers of used oil. There are no RCRA requirements for the RTDS of used oil by those persons not meeting the regulatory definition of a marketer. Marketers are subject to the following requirements based on whether or not the used oil meets "specification".

**NOTE:** Used oil is regulated by DOT if it meets the definition of a combustible or flammable liquid.

a. "Specification used oil" is used oil burned for energy recovery that does not exceed the allowable levels of any of the constituents/properties listed on 40 CFR 279.11. **40 CFR 279.74(b) has been amended to clarify that the initial marketer of on-specification used oil, under 40 CFR 279.11, must only keep a record of a shipment of used oil to the facility to which the initial marketer delivers the used oil. 3 Dec 03** Requirements:

(1) Obtain analysis or other information to document that the used oil meets the specification.

(2) Maintain an operating log on shipments of used oil to include:

- Name and address of facility receiving the shipment.
- The quantity of used oil fuel delivered.
- The date of shipment or delivery.

- A cross-reference to the record of **used oil** analysis, or other information used to make the determination that the oil meets the specification **as required under 40 CFR 279.72(a). 3 Dec 03**

(3) Keep the above records 3 years.

b. "Off-specification used oil" is used oil burned for energy recovery that exceeds the allowable levels of any of the constituents/properties listed in 40 CFR 279.11. Requirements:

(1) Obtain notice from burner or other marketer that:

- He has notified EPA of the location and description of used oil activities and has an EPA identification number.

**NOTE:** This does not apply to overseas DRMOs.

- If a burner, he will only burn the used oil in an industrial furnace or boiler identified in 40 CFR 279.61(a).

(2) Notify EPA of used oil management activities.

(3) Utilize an invoice system for the shipment of used oil which includes the following:

- Invoice number.
- EPA ID numbers of shipper and facility receiving used oil.
- Names and address of shipping and receiving facilities.
- Quantity of off-specification used oil delivered.
- Date(s) of shipment/delivery.

(4) Keep copies of invoices and notices for 3 years.

3. Refer to DRMS-I 4160.14, Volume V for additional information on sales of used oil products.

## D. REQUIREMENTS FOR USED OIL FILTERS.

1. Non-terne plated used oil filters that are not mixed with wastes listed in subpart D of 40 CFR 261 are excluded under 40 CFR 261.4(b)(13), if the oil filters have been gravity hot-drained using one of the following methods:

- a. Puncturing the filter anti-drain back valve or the filter dome end and hot-draining.
- b. Hot-draining and crushing;
- c. Dismantling and hot-draining; or,
- d. Any other equivalent hot-draining method that will remove used oil.

2. Terne plated oil filters are not included in the exemption and require a HW determination prior to disposal in a landfill. Other types of filters, such as fuel filter, transmission oil filters or specialty filters (such as cloth railroad oil filters) are also not included in the exemption.

## E. REFRIGERANT CONTAMINATED COMPRESSOR OIL.

1. Refrigerant-contaminated compressor oil from refrigerated equipment may contain residual halogenated substances that cause it to exceed 4,000 ppm CFC concentrations.

2. Presently, USEPA does not require that the halogenated substances be recovered from refrigerant-contaminated compressor oil to comply with the refrigerant recycling rule, although such requirements could be issued in the future.

3. The high concentrations of these halogenated substances, however, places the management of residual compressor oil as a waste subject to the Resource Conservation and Recovery Act (RCRA), which establishes requirements on the handling, storage and disposal of used oil contaminated with halogenated compounds.

4. Refrigerant-contaminated compressor oil will be managed under RCRA, Rebuttable Presumption for Used Oil, as outlined at 40 CFR Parts 179.10(b)(ii)(B) and 279.44(c)(2) and (d). Note that:

a. The regulation exempts from the “rebuttable presumption” refrigerant-contaminated compressor oil removed from refrigeration equipment **only** with refrigerants (CFCs) and **not mixed** with used oil from other sources, if the CFCs are destined for reclamation.

b. If the CFCs in the compressor are not destined for reclamation, manage the oil as a hazardous waste.

c. The “rebuttal presumption” does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

## **F. APPLICABILITY OF THE USED OIL MANAGEMENT STANDARDS TO PCB CONTAMINATED USED OIL. 3 Dec 03**

*The Environmental Protection Agency (EPA) issued a final rule, on July 30, 2003, to eliminate drafting errors and misconceptions in the used oil management standards (i.e., 40 CFR 279). Specifically, the rule clarifies 1) when used oil contaminated with polychlorinated biphenyls (PCBs) is regulated under the RCRA and when it is not; 2) that mixtures of conditionally exempt small quantity generator (CESQG) waste and used oil are subject to the RCRA used oil management standards without regard of how that mixture is to be recycled; and 3) that the initial marketer of used oil fuel specification need only keep a record of a shipment of used oil to the facility to which the initial marketer delivers the used oil. The final rule became effective on September 29, 2003.*

*A copy of the Federal Register, July 30, 2003, Hazardous Waste Management System: Identification and Listing of Hazardous Waste, Recycled Used Oil Management Standards, Final Rule, pages 44659-44665, can be obtained through the National Archives and Records*

Administration's on-line Code of Federal Regulations at:  
<http://www.gpoaccess.gov/fr/index.html>.

The final rule amends 40 CFR 279.10(i) to clarify the applicability of the RCRA used oil standards to used oil containing PCBs. It also amends 40 CFR 279.74(b) to clarify the record-keeping requirements for marketers of on-specification used oil. It amends 40 CFR 261.5(j) to clarify that mixtures of CESQG waste and used oil that are to be recycled as used oil are regulated under the used oil management standards, regardless of how it is recycled.

1. For used oil that contains PCBs with concentrations of 2 ppm or greater, but less than 50 ppm (other than those diluted to below 50 ppm), TSCA regulates the burning of used oil for energy recovery (i.e., 40 CFR 761.20(e)). This used oil is also regulated under the RCRA used oil management standards at 40 CFR 279.r

2. The Toxic Substances Control Act (TSCA) prohibition against the dilution of PCB concentrations below regulatory levels (40 CFR 761.1(b)(5)) applies to the dilution of PCB-containing used oil. Used oil that contains, or contained prior to dilution, 50 ppm or greater

of PCBs is not subject to the RCRA used oil standards, because the TSCA regulations at 40 CFR 761 provide complete management of such used oil. Likewise, used oil that contained a maximum concentration of 2 ppm or greater, but less than 50 ppm, which is then diluted to a concentration of less than 2 ppm, is still regulated under TSCA as used oil that contains greater than 2 ppm PCBs.

3. Used oil that is to be burned for energy recovery and has been shown to contain less than 2 ppm PCBs (if it has not been diluted) is subject to record keeping and retention requirements under TSCA (40 CFR 761.20(e)(2), (e)(4)) and is regulated under the RCRA used oil management standards. TSCA regulations prohibit the burning for energy recovery of used oil that contains (or contained prior to dilution) PCB concentrations of 50 ppm or greater (40 CFR 761.20(a)).

Note, that used oils of unknown concentration can be mixed with other such used oils in a common container and subsequently tested to determine if it is less the 2 ppm PCB. See 40 CFR 761.20(e)(2) and 761.60(g)(2).

The following table shows the relationship of the RCRA and TSCA regulations as they pertain to used oil containing PCBs that is to be burned for energy recovery.

Table 1. REGULATION OF USED OIL CONTAINING PCBs THAT IS TO BE BURNED FOR ENERGY RECOVERY UNDER 40 CFR 279 (RCRA REGULATIONS) AND 40 CFR 761 (TSCA REGULATIONS).

Range of PCB Contamination Levels in used oil (ppm)	Does RCRA regulate this used oil if it is to be burned for energy recover? <sup>b</sup>	Does TSCA regulate this used oil if it is to be burned for energy recover? <sup>b</sup>
Demonstrated to contain less than 2	Yes (part 279) .....	Yes (761.20(e)(2), (e)(4)). <sup>a</sup>
2 to less than 50 .....	Yes (part 279) .....	Yes (761.20(e)).
50 and greater .....	No (part 279) .....	Yes (prohibited) (761.60)

*<sup>a</sup> Used oil that is to be burned for energy recovery is presumed to contain 2 ppm or greater of PCBs unless shown otherwise by testing or other information. TSCA imposes record keeping and retention requirements.*

*<sup>b</sup> Assumes no dilution. No person may avoid any provision under TSCA specifying a PCB concentration by diluting the PCBs, unless otherwise provided. See 40 CFR 761.1(b)(5).*

#### *Mixtures of CESQG Waste and Used Oil*

*The final rule makes clear that mixtures of CESQG waste and used oil that are recycled are regulated as used oil under the used oil management standards. 40 CFR 261.5(j) is amended by removing both phrases, “if it is destined to be burned for energy recovery.” The amended Section 261.5(j) clarifies that mixtures of used oil and CESQG wastes that are to be recycled in a manner other than by burning for energy recovery, such as by re-refining, would be subject to the used oil management standards regardless of how the used oil is to be recycled.*