

US EPA ARCHIVE DOCUMENT

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 264, 265, 271, and 279

[EPA/530-Z-93-004; FRL-4619-7]

RIN 2050-AC17

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule; technical amendments and corrections.

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SUMMARY: This action corrects several technical errors and provides clarifying amendments to the final recycled used oil management standards rule. The final rule was published on September 10, 1992 (57 FR 41566). This action also corrects an error in the final used oil rule published on May 20, 1992 (57 FR 21524). These revisions provide clarification and correct unintended consequences of both rules.

EFFECTIVE DATE: March 8, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Eydie Pines at (202) 260-3509 or Bryan Groce at (202) 260-9550, Office of Solid Waste (OS-332), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

>>>> Preamble has not been included in this file. <<<<

For the reasons set out in the preamble title 40 of the Code of Federal Regulations is amended as follows:

PART 261-IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921-6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

§ 261.4 [Amended]

2. Section 261.4 is amended by redesignating paragraph (b)(15) as (b)(13).

3. Section 261.4 is amended by adding paragraph (b)(14) to read as follows:

§ 261.4 Exclusions.

\* \* \* \* \*

(b) \* \* \*

(14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

\* \* \* \* \*

§ 261.5 [Amended]

4. In paragraph (j), revise the phrase "subpart G of part 279," to read "part 279."

PART 264-STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

5. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

6. Section 264.1 is amended by revising paragraph (g)(2) to read as follows:

§ 264.1 Purpose, scope, and applicability.

\* \* \* \* \*

(g) \* \* \*

(2) The owner or operator of a facility managing recyclable materials described in § 261.6 (a)(2), (3), and (4) of this chapter (except to the extent they are referred to in part 279 or subparts C, D, F, or G of part 266 of this chapter).

\* \* \* \* \*

PART 265-INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

7. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, 6935, and 6936.

8. Section 265.1 is amended by revising paragraph (c)(6) to read as follows:

§ 265.1 Purpose, scope, and applicability.

\* \* \* \* \*

(c) \* \* \*

(6) The owner or operator of a facility managing recyclable materials described in § 261.6 (a)(2), (3), and (4) of this chapter (except to the extent they are referred to in part 279 or subparts C, D, F, or G of part 266 of this chapter).

\* \* \* \* \*

>>>> Part 271 has not been included because it is not required as part of a State's Hazardous Waste Program. <<<<

#### PART 279-STANDARDS FOR THE MANAGEMENT OF USED OIL

13. The authority citation for part 279 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001 through 3007, 3010, 3014, and 7004 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, and 6974); and sections 101(37) and 114(c) of CERCLA (42 U.S.C. 9601(37) and 9614(c)).

§ 279.1 [Amended]

14. In § 279.1, the definition of "used oil," is amended by revising the phrase "if contaminated" to read "is contaminated."

15. Section 279.10 is amended by revising paragraph (b)(2) introductory text to read as follows:

§ 279.10 Applicability.

\* \* \* \* \*

(b) \* \* \*

(2) Characteristic hazardous waste.

Mixtures of used oil and hazardous waste that solely exhibits one or more of the hazardous waste characteristic 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:

\* \* \* \* \*

16. Section § 279.10(b)(2)(ii) is amended by adding the phrase "Except as specified in § 279.10(b)(2)(iii)" at the beginning of the paragraph.

17. In § 279.10(b)(2)(iii) revise the phrase "because if exhibits" to read "because it exhibits".

18. In § 279.10(d)(1) revise the phrase "or other products" to read "or other fuel products".

19. In § 279.10(e)(3)(ii) revise the phrase "if the materials are identified as hazardous waste" to read "if the materials are listed or identified as hazardous wastes."

20. Section 279.10 is amended further by revising paragraph (c), paragraph (e)(4) and paragraph (i) to read as follows:

§ 279.10 Applicability.

\* \* \* \* \*

(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.

\* \* \* \* \*

(e) \* \* \*

(4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this part.

\* \* \* \* \*

(i) Used oil containing PCBs. In addition to the requirements of 40 CFR part 279, marketers and burners of used oil who market used oil containing any quantifiable level of PCBs are subject to the requirements found at 40 CFR 761.20(e).

21. The table in § 279.11 is amended by adding a note to the end to read as follows:

§ 279.11 Used oil specifications.

\* \* \* \* \*

Note: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).

22. Section 279.12 is amended by adding paragraph (c)(3) to read as follows:

§ 279.12 Prohibitions.

\* \* \* \* \*

(c) \* \* \*

(3) Hazardous waste incinerators subject to regulation under subpart O of parts 264 or 265 of this chapter.

\* \* \* \* \*

23. Section 279.21 is amended by revising paragraph (a) to read as follows:

§ 279.21 Hazardous waste mixing.

(a) Mixtures of used oil and hazardous waste must be managed in accordance with § 279.10(b).

\* \* \* \* \*

§ 279.22 [Amended]

24. The first sentence of § 279.22 is removed.

§ 279.23 [Amended]

25. In § 279.23 remove paragraph (b) and redesignate paragraph (a) as introductory text and paragraphs (a)(1) through (3) as (a) through (c) respectively.

§ 279.40 [Amended]

26. In the first sentence of § 279.40 (a)(4), revise the words "generated by," to read "from" and remove the words "from the initial generator."

27. In § 279.40 (d)(4), the phrase "of the partial Marketers" is removed.

§ 279.42 [Amended]

28. In § 279.42 paragraph (a) is revised to read as follows:

§ 279.42 Notification.

(a) Identification numbers. Used oil transporters that have previously notified EPA of hazardous waste and other used oil management activities and obtained a U.S. EPA Identification Number must renotify to identify their used oil transporter activities.

\* \* \* \* \*

29. In § 279.42(b)(1), revise the phrase "To obtain EPA Form 8700-12" to read "To obtain ordering information for EPA Form 8700-12".

30. Section 279.43 is amended by revising paragraph (b) to read as follows:

§ 279.43 Used oil transportation.

\* \* \* \* \*

(b) DOT Requirements. Used oil transporters must comply with all applicable requirements under the U.S. Department of Transportation regulations in 49 CFR parts 171 through 180. Persons transporting used oil that meets the definition of a

hazardous material in 49 CFR 171.8 must comply with all applicable regulations in 49 CFR parts 171 through 180.

\* \* \* \* \*

§ 279.45 [Amended]

31. Section 279.45 is amended by removing the first sentence and revising the word "generators" in the third sentence to read "transporters".

32. In § 279.45 add paragraph (d)(1)(iii) and revise the period at the end of paragraph (d)(1)(ii) to read "; or" as follows:

§ 279.45 Used oil storage at transfer facilities.

(d) \* \* \*

(1) \* \* \*

(iii) An equivalent secondary containment system.

\* \* \* \* \*

§ 279.51 [Amended]

33. Paragraph (a) of § 279.51 is revised to read as follows:

§ 279.51 Notification.

(a) Identification numbers. Used oil processors/rerefiners that have previously notified EPA of hazardous waste and other used oil management activities and obtained a U.S. EPA Identification Number must renotify to identify their used oil processors/rerefiners activities.

\* \* \* \* \*

§ 279.52 [Amended]

34. In § 279.52(b)(6)(viii)(C) revise the phrase "paragraph (h) of this section" to read "paragraphs (b)(6)(viii) (A) and (B) of this section.".

§ 279.54 [Amended]

35. In § 279.54, remove the first sentence and revise the word "generators" in the third sentence to read "processors/re-refiners".



36. In § 279.54(a) remove the words "or process".

37. Section 279.54 is amended by adding paragraph (c)(1)(iii) and by revising the period after paragraph (c)(1)(ii) to read "; or" as follows:

§ 279.54 Used oil management.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iii) An equivalent secondary containment system.

\* \* \* \* \*

§ 279.60 [Amended]

38. In § 279.60 (b)(1) revise "this subpart" to read "with subpart".

§ 279.62 [Amended]

39. In § 279.62 paragraph (a)(1) is revised to read as follows:

§ 279.62 Notification.

\* \* \* \* \*

(a) Used oil burners that have not previously notified EPA of their used oil burning activities must notify EPA to identify their used oil burning activities. Even if a burner has previously notified EPA of hazardous waste management activities under section 3010 of RCRA and obtained an identification number, the used oil burner must renotify to identify used oil burning activities.

\* \* \* \* \*

§ 279.64 [Amended]

40. Section 279.64 is amended by removing the first sentence of this section and revising the word "generators" in the third sentence to read "burners".

§ 279.70 [Amended]

41. In § 279.70(a), revise the word "section" to read "subpart."

§ 279.72 [Amended]

42. In § 279.72(a), remove the last sentence.

§ 279.73 [Amended]

43. In § 279.73(a), revise "this section" to read "this subpart."

44. In § 279.73 paragraph (a) is revised to read as follows:

§ 279.73 Notification.

(a) Used oil fuel marketers that have not previously notified EPA of their used oil fuel marketing activities must notify EPA to identify these used oil fuel marketing activities. Even if a used oil fuel marketer has previously notified EPA of hazardous waste management activities under section 3010 of RCRA and obtained an identification number, the used oil fuel marketer must renotify to identify used oil fuel marketing activities.

\* \* \* \* \*

§ 279.74 [Amended]

45. In the first sentence of § 279.74(a), revise the word "generator" to read "marketer."

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