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1. Mixtures of Used Oil and Characteristic Hazardous Waste

A manufacturer generates used oil that exhibits the toxicity characteristic (TC) for lead (D008). On one occasion, the used oil is mixed with an unlisted spent solvent that is hazardous due to the characteristic of ignitability (D001) and the TC for benzene (D018). On another occasion, the used oil is mixed with a spent solvent that is hazardous solely because it exhibits the characteristic of ignitability (D001). After mixing, both waste streams exhibit only the TC for lead and are sent to be burned for energy recovery in an industrial boiler. Do both mixtures qualify for regulation as used oil under 40 CFR Part 279 standards for used oil management?

The first mixture must be managed as hazardous waste (D008) and the second mixture must be managed as used oil. Section 279.10(b)(2) specifically addresses mixtures of used oil and characteristic wastes, drawing a critical distinction between the two mixtures described above. The first mixture is addressed in §279.10(b)(2)(i), which states that a mixture of characteristic hazardous waste and used oil must be handled as a hazardous waste if it displays any characteristics of hazardous waste. This section applies to any mixture of used oil and characteristic hazardous wastes, other than wastes that are hazardous solely because they exhibit the characteristic of ignitability. Since the first mixture contains a characteristic hazardous waste that is hazardous because of ignitability and toxicity, and the mixture continues to display the TC for lead, it is considered hazardous waste. In order to qualify for classification as used oil this mixture must be free of all characteristics, including those originating from the used oil (D008) and those stemming from the hazardous waste (D001 and D018).

Section 279.10(b)(2)(iii) addresses the second mixture and is more specific. It dictates that a mixture of used oil and a characteristic hazardous waste, which is hazardous solely because it displays the characteristic of ignitability, may continue to be managed as used oil provided that the resulting mixture is not

ignitable. Since the second used oil/waste mixture is no longer ignitable, it is classified as used oil, even though it still displays the TC for lead (D008).

The difference in these two scenarios is that used oil that is mixed with a characteristic hazardous waste (other than a solely ignitable waste) must be free of characteristics to qualify for classification as used oil, whereas used oil that is mixed with a waste that is hazardous solely due to ignitability needs only to be void of the ignitability characteristic to be considered used oil. The difference in the two scenarios is critical because used oil often inherently exhibits a characteristic of hazardous waste.

The standards in Part 279, while tailored to used oil handling, do not negate the requirements placed on handlers by the hazardous waste regulations, and mixing an ignitable waste with used oil to render the waste nonhazardous constitutes treatment of hazardous waste and is subject to all applicable hazardous management standards, including permitting (50 FR 49180; November 29, 1985).

Note that Part 279 standards, other than those related to burning and marketing, are effective March 8, 1993, in unauthorized states only and in authorized states they are not effective until those states amend their program to incorporate the standards. Standards regarding the marketing and burning of used oil for energy recovery are simply transferred from existing Part 266 regulations.