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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 261 and 279****[RCRA-1998-0015; FRL-7537-4]****RIN 2050-AF07****Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards****AGENCY:** Environmental Protection Agency.**ACTION:** Final rule.

SUMMARY: Today's final rule eliminates drafting errors and ambiguities in the used oil management standards. Specifically, this rule clarifies when used oil contaminated with polychlorinated biphenyls (PCBs) is regulated under the RCRA used oil management standards and when it is not; that mixtures of conditionally exempt small quantity generator (CESQG) waste and used oil are subject to the RCRA used oil management standards irrespective of how that mixture is to be recycled; and that the initial marketer of used oil that meets the 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.

DATES: This final rule will become effective on September 29, 2003.

ADDRESSES: Public comments and supporting materials are available for viewing in the EPA Docket Center, located at 1301 Constitution Avenue, NW, Washington, DC. The Docket ID Number is RCRA-1998-0015. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Call Center at (800) 424-9346 or TDD (800) 553-7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412-9810 or TDD (703) 412-3323.

For more detailed information on specific aspects of this rulemaking, contact Mike Svizzero by mail at Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, by phone at (703) 308-0046, or by Internet e-mail at svizzero.michael@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information**

EPA has established an official public docket for this action under Docket ID No. RCRA-1998-0015. The official public docket is the collection of materials that is available for public viewing at the OSWER Docket in the EPA Docket Center (EPA/DC), EPA West Building, Room B102, 1301 Constitution Ave NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OSWER Docket is (202) 566-0270.

You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. Once in the system, select "search" and then key in the appropriate docket identification number.

Outline of Today's Document

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 - B. Mixtures of CESQG Waste and Used Oil
 - C. Clarification of the Recordkeeping Requirements for Marketers of On-Specification Used Oil
- III. State Authority
- IV. Statutory and Executive Order Reviews
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I. Authority

These regulations are issued under the authority of sections 1004, 1006, 2002(a), 3001 through 3007, 3010, 3013, 3014, 3016 through 3018, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and as amended by the Used Oil Recycling Act, as amended, 42 U.S.C. 6901, 6905, 6912(a), 6921 through 6927, 6930, 6934, 6935, 6937 through 6939 and 6974.

II. Background and Regulatory Amendments

Today's final rule reinstates, with some modifications, three amendments to the RCRA used oil management standards of 40 CFR Part 279. These amendments were issued on May 6, 1998 as a direct final rule, but were retracted on July 14, 1998 because of adverse public comment to the amendments (see 63 FR 24963 and 63 FR 25006). One of the withdrawn amendments, applicability of the used oil management standards to PCB contaminated used oil, was a clarification of the applicability of the RCRA used oil management standards to PCB contaminated used oil. This clarification was undertaken as part of a settlement agreement to resolve a lawsuit challenging a final rule promulgated on May 3, 1993, (58 FR 26420) regarding EPA's used oil regulations. *Edison Electric Institute v. U.S. EPA* (D.C. Circuit No. 93-1474). Specifically, the May 1993 rule corrected technical errors and provided clarifying amendments to the used oil management standards promulgated on September 10, 1992 (57 FR 41566). The other amendments reinstated today clarify (1) that mixtures of conditionally exempt small quantity generator (CESQG) waste and used oil are subject to the used oil management standards irrespective of how that mixture is to be recycled and (2) that the initial marketer of used oil that meets the 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.

A. Applicability of the Used Oil Management Standards to PCB Contaminated Used Oil

Today's rule amends 40 CFR 279.10(i) to clarify the applicability of the RCRA used oil management standards to used oil containing PCBs. The amendment clarifies that used oil that contains less than 50 ppm of PCBs is generally subject to regulation under the RCRA used oil management standards. However, the amendment notes that the