

### 3. Used Oil Storage Tank Bottoms: Hazardous Waste or Used Oil When Burned for Energy Recovery?

A garage servicing automobiles and trucks generates significant quantities of used oil, which it manages in compliance with the federal regulations at 40 CFR Part 279. The used oil is not mixed with other wastestreams from the facility. Instead, the operator of the garage accumulates the oil in an on-site storage tank. A used oil transporter periodically empties the tank and delivers the used oil to another company that burns it for energy recovery. Over time, gravity causes solids and heavier fractions to settle out of the used oil stored in the tank at the garage. As a result, thick tar-like layers accumulate at the bottom of the storage tank. The garage operator wishes to remove these tank bottoms from the used oil storage tank and send them off-site to be burned for energy recovery. Although only used oil has been placed in the tank, the accumulated tank bottoms and the original used oil differ significantly in physical form. The garage operator is concerned that the tank bottoms may not qualify as used oil and may not be eligible for handling under 40 CFR Part 279. Laboratory analysis shows that the bottoms typically exhibit the toxicity characteristic for lead, cadmium, chromium, and benzene. When sent off-site to be burned for energy recovery, must these bottoms from the used oil storage tank be handled as used oil or as characteristic hazardous waste?

When burned for energy recovery, these tank bottoms from the used oil storage tank qualify as used oil and may be handled in accordance with the used oil recycling regulations of 40 CFR Part 279. Under current EPA rules, residues or sludges resulting from the storage, processing, or re-refining of used oil are considered used oil when they are recycled through burning for energy recovery (40 CFR 279.10(e)(2)). EPA clarified the status of such residues in the preamble to the May 3, 1993, Federal Register (58 FR 26420, 26422). As is the case with all used oils sent for recycling, the fact that the tank bottoms from the garage exhibit one or more characteristics of hazardous waste identified in Part 261, Subpart C does not alter their status as used oil (279.10(a)). The tank bottoms recycled through burning for energy recovery must be handled as hazardous waste only if they fail the rebuttable presumption described at 279.10(b)(1)(ii), or if they have actually been mixed with hazardous waste (279.10(b)(1) and (2)). If the tank bottoms are not being recycled, however, they must be handled as characteristic hazardous waste when disposed of or sent for disposal (279.20(a)).