

9442.1985(01)

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

DECEMBER 85

Burning and Blending

8. A generator of used oil burns the used oil on-site in an industrial boiler. The used oil neither exhibits a Subpart C characteristic of a hazardous waste nor exceeds any of the specification levels listed in §266.40(e) (November 29, 1985, Federal Register (50 FR 49164)). If the generator blends unused product xylene (hazardous waste number U239) into used oil, does he then have a hazardous waste fuel (per §261.6 (a)(2)(ii)) which is subject to regulation under Subpart D of Part 266?

Xylene is a commercial chemical product listed in §261.33(f). U.S. EPA has determined, however, that listed commercial chemical products are not solid wastes (or hazardous wastes) when burned for energy recovery if they are themselves fuels or normal components of commercial fuels per §261.33 which states that such materials are not "discarded", and restated in footnote 8 of the November 29, 1985, Federal Register (50 FR 49168). Xylene is a normal component of fuel. Therefore, the unused xylene is neither a regulated solid waste nor hazardous waste when burned for energy recovery. The generator's used oil has not been mixed with hazardous waste and is not a hazardous waste fuel. Therefore it will not be subject to Part 266, Subpart D regulation per §§261.33 and 261.6(a) (2)(ii). The used oil, however, is being burned for energy recovery and so is regulated under Part 266, Subpart E, per §266.40(a). Section 266.42 states that generators who burn used oil are subject to §266.44. The burner must notify under Section 3010 of RCRA for his used oil management activities and maintain documentation or analysis showing that the used oil meets the specifications.

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