

## 2. Recycling Presumption Under Part 279

*According to 40 CFR 279.10(a), used oil handlers are subject to the Part 279 used oil management standards until the used oil is disposed of or sent for disposal. How is a used oil generator regulated if he/she sends used oil to a processor to be recycled, but the processor disposes of it instead? In this situation, is the generator required to determine if the used oil is hazardous, since it was not recycled?*

No, the generator is not required to conduct a hazardous waste determination for the used oil originally sent to the processor to be recycled. The Part 279 used oil management standards are based on a presumption that all used oil is recyclable and should be managed under one set of standards. Even if the used oil exhibits a hazardous waste characteristic or will ultimately be disposed of by a different used oil handler, it is still subject to Part 279 (57 FR 41578; September 10, 1992). The recycling presumption allows a used oil handler or any other person who handles the oil prior to the person who decides to dispose of the oil, to presume that his/her used oil will be recycled regardless of its final disposition.

Once a used oil handler determines the used oil will be sent for disposal, he/she must conduct a hazardous waste determination pursuant to 262.11. Since used oil is not a listed hazardous waste under RCRA, it would be subject to all applicable Subtitle C regulations if it exhibits a hazardous waste characteristic. Additionally, the recycling presumption and the Part 279 standards do not apply if the used oil is mixed with a listed hazardous waste (except for a conditionally exempt small quantity generator (279.10(b)(3)), or mixed with a characteristic hazardous waste which does not meet the provisions of 279.10(b)(2). In either of these situations, the used oil/hazardous waste mixture would be subject to Subtitle C regulation.

Finally, not all of the federal Part 279 standards are effective in every state. Used oil handlers should contact their state agencies for specific regulatory requirements which could, potentially, be more stringent than the federal standards.