



State of Oregon Department of Environmental Quality
**Management of Diesel Fuel and Asphalt
Tack/Emulsion Mixtures**

Hazardous Waste Program

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Purpose

This guidance provides guidance to Department staff when evaluating the application of the hazardous waste regulations to generators of diesel fuel and asphalt tack/emulsion waste mixtures. Road construction and maintenance activities often produce a waste generated from the cleaning of asphalt tack coating or emulsion application equipment with diesel fuel. There has been concern that this waste mixture may be a characteristic hazardous waste (for ignitability and/or benzene) when disposed of or recycled. Enforcement discretion may be used for what would otherwise be RCRA violations if the best management practices identified in this guidance for this waste stream are followed.

This guidance is intended solely as guidance for employees of the Department of Environmental Quality (DEQ). It does not constitute rulemaking by the Environmental Quality Commission and may not be relied upon to create a right or benefit, substantive or procedural, enforceable by law or in equity, by any person. DEQ may take action at variance with this guidance statement.

Applicability

This guidance is limited to mixtures of diesel fuel and asphalt tack coating/emulsion wastes generated from cleaning out asphalt tack coating and emulsion application equipment. It does not apply to other asphalt tack coating or emulsion wastes generated from storage or use of these materials. The guidance also does not apply to mixtures of diesel fuel and asphalt tack coating/emulsion waste with other wastes.

Why Needed?

There has been recent confusion regarding how this waste should be managed, specifically it was believed that the waste may be characteristic for ignitability and/or benzene. Formerly, this waste was assumed to be non-hazardous waste. Recent Department data indicates that this waste mixture, when managed according to best management standards, infrequently exhibits a hazardous waste characteristic

Because of this, the Department believes that diesel fuel and asphalt tack/emulsion waste mixtures, when managed according to the management standards listed in the Guidance Description section below and properly recycled will be assumed to be managed according to applicable hazardous waste management requirements for the following reasons:

- It is believed that these waste mixtures infrequently exhibit the hazardous waste characteristic for benzene or ignitability;
- Present management in the used oil management system appears to provide management for the waste that is protective to health and the environment; and
- Because of the oily nature of this waste, it is very difficult to reliably perform the Toxic Characteristic Leaching Procedure (TCLP) analysis on the waste that would otherwise be required.

Discussion

Waste mixtures of diesel fuel asphalt tack/emulsion may be assumed by the Department to be properly managed according to the following best management practices:

1. The waste mixture contains spent diesel fuel that was used as a solvent to clean asphalt tack or emulsion application equipment;
2. The waste mixture is managed in tanks or containers that are in good condition (no visible leaks or corrosion) that are labeled with the contents (e.g., “Waste Solvent Tack / Emulsion Mixture”);
3. The tank or containers are under the control of the operator of the process generating the waste;
4. No additional wastes (e.g., waste fuels, spent solvents, tank sludges) are added to the waste mixture;
5. The waste mixture is recycled (e.g., burned for energy recovery or re-refined) according to used oil management requirements of OAR 340-111-0010(2)(c); and
6. Records are kept demonstrating that the waste was transported to a used oil processor or used oil burner for processing and subsequent recycling.

Wastes not managed in accordance with these best management practices may result in a notice of non-compliance for failure to do a proper waste determination and, if the material exhibits a hazardous waste characteristic, illegal disposal of hazardous waste.

Alternative Formats

Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011; or email deqinfo@deq.state.or.us.