

From: [BACHMAN Jeff](#)
To: [ROOT Jenny](#)
Subject: FW: Division 12 Revisions and Used Oil Violations
Date: Tuesday, January 07, 2014 12:36:47 PM

Jeff Bachman
Office of Compliance and Enforcement
Oregon Dept. of Environmental Quality
(503) 229-5950

From: FULLER Brian
Sent: Tuesday, February 26, 2013 5:47 PM
To: LIVENGGOOD David; [All DEQ] HW Managers
Cc: BACHMAN Jeff
Subject: RE: Division 12 Revisions and Used Oil Violations

Hello,

By deleting 0072(1)(k), inspectors would have to refer to the Spills Guidance (Appendix J) versus the Used Oil Guidance (Appendix N). Not a huge deal but likely to cause some confusion. The spills guidance does not allow for an EEO as an option whereas the used oil guidance does. The HW program would also lose the ability to update the guidance on responding to used oil spills on its own. We would have to work with spills program to update the guidance if warranted.

I think keeping the minor magnitude as an option is preferable to defaulting to a moderate magnitude. It also sounds like more work would be involved to go to a minor magnitude if that's what was warranted in the first place.

While the rules are redundant, I think it gives the program more options to apply to the variety of situations encountered in the field. If it's not causing a problem, my vote is to leave it as is.

Thanks

From: LIVENGGOOD David
Sent: Tuesday, February 26, 2013 5:31 PM
To: [All DEQ] HW Managers
Cc: BACHMAN Jeff; LIVENGGOOD David
Subject: FW: Division 12 Revisions and Used Oil Violations

Hello, All!

FYI below from Dave LeBrun regarding these proposed changes.

Best,
David.

David Livengood

Interim Manager, Tanks and Hazardous Waste
Oregon Department of Environmental Quality
Office 503.229.5769
Mobile 503.756.4943
In Oregon 800.452.4011

From: LEBRUN Dave
Sent: Tuesday, February 26, 2013 1:27 PM
To: LIVENGOOD David
Subject: RE: Division 12 Revisions and Used Oil Violations

David,

After looking at these yesterday, I was of the opinion that I was fine with the first change in that it is redundant, but I always liked the fact that it was redundant and that this violation is specifically spelled out in 0072 because it's easier for inspectors and reminds them that the violation is there. By the way, the spills violations were put into the program violations sections at the request of the inspectors. But talking to Jeff he thinks OCE uses these more anyway since the inspector just cites that there was a spill so I am willing to go his way on this one.

As to the second change, on my own, I was of the opinion that I disagreed with the second change which would equate spills of oil with spills of used oil by deleting the used oil spill magnitude by handling those violations under the oil spills magnitude. After talking to Jeff and Sarah, I still disagree and I think I have convinced them of my read of the regulations. Used Oil is different from other oils and as such has its own section in RCRA. This is because it is by definition less hazardous than other oils (if it were hazardous it by definition wouldn't be a used oil). The impact of the second change Jeff suggests would get rid of the minor magnitude for used oil spills and instead use the default. As it is spills of less than 42 gallons are minor. Under the proposal below that would go away and used oil spills would automatically be moderate unless a no harm finding could be made. I think that most inspectors like the 42 gallon minor rule and I think I have gotten Jeff to agree as well. Let me know if there are any further questions.

Thanks, Dave.

From: LIVENGOOD David
Sent: Monday, February 25, 2013 12:46 PM
To: LEBRUN Dave
Cc: LIVENGOOD David
Subject: FW: Division 12 Revisions and Used Oil Violations

Dave,

Please provide me your feedback without copying Jeff OCE. I intend to chat with HW managers

about this one before commenting.

Thanks,
David.

David Livengood

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From: BACHMAN Jeff

Sent: Monday, February 25, 2013 11:16 AM

To: LIVENGUOOD David; OBRIEN Audrey; DRUBACK Lissa; FULLER Brian

Subject: Division 12 Revisions and Used Oil Violations

As you all may be aware, OCE is in the process of preparing revisions to Division 12, DEQ's enforcement rules. We had an all day meeting last week where we went over Div. 12 line by line and a couple of proposals regarding used oil specific rules arose. We'd like to get your feedback on this by next week in order to include any changes in the next draft that is going to the advisory committee.

First, we have a specific section in Division 12 that assigns specific classes to used oil violations, - 0072. We recommend deleting -0072(1)(k) which makes failing to immediately clean up spills or releases or threatened spills or releases of used oil a Class I violation. This is redundant with the provision in the hazardous substance specific section, -0081(1)(a) which states failing to immediately clean up spills or releases or threatened spills or releases of oil or hazardous materials a Class I.

Second, -0135(5)(b) sets forth selected magnitudes for spills of used oil. This is inconsistent with the rules regarding the spill of oil or hazardous substances. We recommend deleting the reference to spills in -0135(5)(b) so that the magnitude for used oil spills will be determined in the same manner as that of virgin oil or hazardous substances. We think this makes sense as oil is oil and it doesn't make sense to carve out an exception for used oil.

What do you all think? I need a response by next Tuesday, March 5.

Jeff Bachman

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