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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

SEP 20 1990

John Huber
Counsel
Petroleum Marketers Association of America (PMAA)
1120 Vermont Ave., NW
Suite 1130
Washington, DC 20005

Dear Mr. Huber:

Thank you for your July 18, 1990, letter regarding the toxicity Characteristic (TC) rule outreach and implementation programs, and on clarification with regard to the date by which small quantity generators must notify. As you know, the TC rule will be effective on September 25, 1990. At that time all large quantity generators (LQG) of hazardous waste must be in compliance with all applicable Subtitle C standards under the rule; small quantity generators (SQG) must comply by March 29, 1991. In order to reduce the burdens imposed by the TC rule before the effective dates, the Environmental Protection Agency (EPA) has developed and implemented TC outreach activities for affected industries (enclosure). Specifically, our records indicate that PMAA requested through our outreach program to receive copies of: 1) SQG and LQG brochures which contain industry-specific inserts (e.g., vehicle maintenance); 2) used oil brochures; and 3) waste minimization booklets. Currently, PMAA's orders are being filled through our Cincinnati warehouse. We are pleased with your interest in helping with such outreach and trust these materials will be helpful in that effort.

Regarding guidance from EPA on whether a particular substance handled by petroleum marketers should be characterized as a hazardous waste and on whether used oil should be characterized as a hazardous waste, EPA does not determine whether a particular waste exhibits a characteristic. Such a determination is the responsibility of the generator under the hazardous waste program, and each generator of a solid waste is responsible for determining if he or she is generating a hazardous waste (40 CFR 262.11). We have, however, taken recent samples of used oil. We will be releasing that data this fall in a Federal Register notice. While individuals may still choose to evaluate their specific used oil, this data should provide useful information for those choosing to apply knowledge of typical used oil characteristics. We will

promptly notify you as soon as that data can be released.

Fuel oil that has escaped from a tank may be subject to regulation under the hazardous waste program if it is not promptly cleaned up. However, the Subtitle C program (hazardous waste) does not regulate "household waste" exempted under 40 CFR 261.4 (see 49 FR 44978, November 13, 1984). EPA would generally consider leaks from household tanks to be "household waste" and thus not hazardous waste, regardless of whether the contaminated material is removed by the homeowner or a contractor. Further, reclamation of petroleum products from the contaminated material (soil) and the burning of that material for energy value is also exempted from the hazardous waste regulations.

With regard to clarification of the date by which SQGs must notify to be in compliance with the TC rule, EPA has addressed this issue in the correction notice (enclosure) published in the Federal Register on August 2, 1990 (55 FR 31387). Due to the inconsistencies observed in the March 29, 1990 Federal Register notice (55 FR 11798), EPA is providing SQGs with an additional three months to submit notifications. This extension applies to SQGs only. Therefore, generators of 100 or more and less than 1000 kg/mo (SQGs) of total hazardous waste who are newly regulated by the TC rule must notify the appropriate EPA Regional office by November 2, 1990, not October 31, 1990. The October 31, 1990 date printed in the August 2 notice was a misprint at the Office of the Federal Register. A correction notice correcting this misprint was published on August 10, 1990 (enclosure).

I hope this information is of assistance. For further information concerning the applicability of the TC rule, please contact Steve Cochran, Chief of the Characteristics Section, at (202) 475-8551, or write me. If you are willing, we would also like feedback you may be able to provide us on how your membership reacts to the brochures and similar outreach materials, and what other specific questions they most want additional information on.

Enclosure

Sincerely yours,

Original Document signed

Sylvia K. Lowrance
Director
Office of Solid Waste