

9592.1994(06)

United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

July 11, 1994

Mr. Jack Cameron, President
Appliance Recycling Centers of America, Inc.
7400 Excelsior Boulevard
Minneapolis, Minnesota 55426

Dear Mr. Cameron:

Thank you for your letters of January 5, and May 20, 1994, requesting clarification regarding the applicability of the Environmental Protection Agency's (EPA) used oil regulations to used oil contained in discarded household appliances. Your letter raises three specific questions: (1) whether compressor oil from the discarded appliances must be removed before the appliance is sent to a metal processor for shredding and recycling; (2) if so, whether CFCs must be removed from the drained oil to be eligible for exemption from the rebuttable presumption; and (3) whether the removal of CFCs from drained compressor oil would be considered hazardous waste treatment.

Removal of Used Oil Prior to Shredding

In answer to your first question, the recycled used oil management standards (40 CFR Part 279) do not require that the used oil be drained from the discarded appliances prior to transport. However, the used oil regulations are designed to encourage environmentally sound management of used oil and to prevent the types of releases to land and air that occur as a result of the shredding process you employ and about which you are rightly concerned. To that end, the used oil regulations apply as follows.

If the used oil is not drained from the appliances before transport, the appliances would be subject to the used oil management standards under §279.10(c), which provides that materials containing or contaminated with used oil are subject to regulation as used oil unless the used oil is removed to the extent possible such that no visible signs of free-flowing oil remain in

or on the material. Under the management standards, an ARCA facility would be regulated as a used oil collection center and all of the used oil containing appliances that it collects and manages including household appliances, would be subject to all applicable Part 279 standards. (57 FR 41587 (September 10, 1992)).

Transportation of the discarded used-oil-containing appliances would be regulated under either the used oil management standards or the RCRA hazardous waste standards depending on whether the used oil is to be recycled or disposed.

According to your letter, the appliances (containing used oil) are transported to a metal processor where they shredded for recycling. The used oil, however is not being recycled. Some of it is burned incidentally during the shredding process (i.e., it is not being burned for energy recovery) and some of it remains with the shredder fluff and is landfilled with the fluff. (As you note in your most recent letter, CFCs/HCFs that are mixed with the oil are released to the atmosphere during the shredding process and, once the fluff is placed in a landfill, the oil may leach into the soil and/or groundwater.)

In this situation, because the used oil contained in the appliances is essentially being disposed of, it would be subject to regulation as used oil that is destined for disposal rather than recycling. Under the management standards, used oil destined for disposal is subject to a hazardous waste determination. If it is determined that the used oil contained in the appliances exhibits a hazardous characteristic, the appliances would have to be managed as a hazardous waste in accordance with the RCRA hazardous waste standards. And, the used oil that remains with the shredder fluff would have to be disposed of as a hazardous waste. You should also note that any spillage of characteristic used oil on the ground during the shredding process could also be considered disposal of hazardous waste, and would be subject to all applicable rules in 40 CFR Parts 260-268 and 270. If the used oil is not characteristically hazardous, it would have to be disposed of in either a municipal or industrial landfill in accordance with Subpart I of the Part 279 used oil management standards.

Rebuttable Presumption for CFC Contaminated Used Oil

Your second question concerns the practice of draining the used oil from the appliances, either before or after transport, but prior to shredding of the discarded appliances. The used oil regulations

provide an exemption from the rebuttable presumption for CFC contaminated used oils that have been removed (to the extent possible) from refrigeration units (§279.10(b)(1)). You ask whether the CFCs must be removed from the drained used oil in order for this exemption to apply. Under §279.10(b)(1), the CFCs must be "destined for reclamation" for the exemption to apply in essence, this means that the CFCs must ultimately be removed (i.e., reclaimed) from the drained used oil in order for the oil to qualify for the exemption from the rebuttable presumption. Accordingly, the used oil would be exempt from the rebuttable presumption at the point of draining provided that the CFCs were eventually reclaimed. It should be noted, however, that, regardless of the exemption, CFC contaminated used oil from refrigeration units remains subject to all other appropriate used oil management standards (e.g., used oil that contains more than 4000 ppm total halogens must be burned in accordance with the used oil standards for burners of off-specification used oil fuel, etc.).

CFC Removal Process

Thirdly, you ask whether the removal CFCs/HCFs from drained compressor oil would be considered hazardous waste treatment. The removal of CFCs from used oil would not be considered hazardous waste treatment. Rather, the used oil regulations would apply as follows. Since the used oil/CFC separation process is not designed to make the used oil more amenable for the production of used oil derived products but is instead undertaken primarily to take advantage of the exemption from the rebuttable presumption, the activity would not be subject to regulation as used oil processing. Instead, the owner or operator would be considered a used oil generator and the used oil would have to be managed in compliance with the generator standards. Additionally, any used oil that cannot be recycled and is discarded must be disposed of in either a hazardous waste landfill (if it exhibits a hazardous characteristic) or an industrial or municipal solid waste landfill (if it is determined to be non-hazardous).

Finally, it is important to note that EPA Regional offices and States authorized to implement the RCRA program make determinations regarding the requirements that apply in specific situations. Also, some States have programs that are more stringent than the Federal hazardous waste program. If you have any further questions regarding the used oil regulations, please contact Eydie Pines of

my staff at (202) 260-3509.

Sincerely,

David Bussard, Director
Characteristic and Assessment Division