

PPC 9495.1986(08)

HAZARDOUS WASTE HAS BEEN MIXED WITH USED OIL
(1000 PPM TOTAL HALOGENS)(REBUTTABLE PRESUMPTION)

April 8, 1986

A. R. Tarrer, P.E.
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Auburn University
College of Engineering
Auburn University, Alabama 36849-3501

Dear Mr. Tarrer:

Thank you for your March 18, 1986, letter concerning the possibility of separating chlorides from used oil. As explained in more detail below, you may strip used oil to reduce its halogen content, but any fuel produced by treating a listed hazardous waste is still considered a hazardous waste.

Used oil used as fuel (or to produce fuel) that contains over 1000 ppm total halogens is presumed to be mixed with halogenated hazardous wastes listed in 40 CFR Part 261, Subpart D. (See 40 CFR 266.40(c).) Such used oil is thus also a listed hazardous waste. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 40 CFR Part 261, Appendix VIII). Absent such a showing, the used oil is regulated as hazardous waste fuel under 40 CFR Part 266, Subpart D, not the used oil fuel rules of Part 266, Subpart E. You could treat such used oil with steam or air stripping to reduce the halogen content. You would need a RCRA hazardous waste permit to do so. Under 40 CFR 261.3(c)(2)(i), any fuel produced by treating hazardous waste is still considered hazardous waste. (In contrast, if a lubricant is produced, the lubricant is not a hazardous waste because under 40 CFR 261.2 it is not a solid waste.) To market the fuel as an exempt material, you would have to obtain a "delisting" decision under the petition process under 40 CFR 260.20 and 260.22 by showing that the resultant fuel is not hazardous.

Commenters on EPA's November 29, 1985, proposal to extend the 1000 ppm halogen limit beyond used oil fuels to include all used oils being recycled (see 50 FR 40217-49218) have indicated that, for a variety of reasons, the 1000 ppm limit is too restrictive. They have suggested that it be raised to 2500, 3000, or 4000 ppm. We are considering these comments, and, in

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fact, are presently conducting studies to determine if some unmixed used crankcase oils may contain over 1000 ppm halogens. Although EPA may raise the limit as a result of those studies, the rule described above applies in the interim.

I suggest you contact the generators who have been sending you used oil with over 1000 ppm halogens either to obtain documentation that they are not mixing hazardous waste with the used oil or to make sure they properly manifest their shipment. It is possible that some of these generators may previously have been exempt from hazardous waste regulations as "small quantity generators" under 40 CFR 261.5. EPA recently lowered the exemption limit from 1000 to 100 kilograms per month, however, and these generators will be required to comply with the hazardous waste rules by September 22, 1986 (51 Fr 10146). We would be very interested in learning what you find out about the waste management practices of each of the generators from whom you receive used oil.

If you have further questions on our used oil rules, please contact Mike Petruska of my office at (202) 382-7917.

Sincerely,

Marcia E. Williams
Director
Office of Solid Waste (WH-562)

bcc: Mark Greenwood
Steve Silverman
Tom Devine, Region IV
Hazardous Waste Division Director

RO 12608