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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

November 27, 1996

Bryan W. Dixon, P.E., Director
Municipal Solid Waste Division
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

Dear Mr. Dixon:

This letter is in response to your letter dated June 12, 1996-concerning on-specification used oil. Specifically, you requested clarification of the applicability of 40 Code of Federal Regulations Part 279 to used oil that meets specifications.

The requirements for on-specification used oil are described in 279.11 of the Used Oil Management Standards. Used oil that is to be burned for energy recovery and that meets the fuel specifications of 279.11 is not subject to the requirements of Part 279 once the conditions at 279.72, 279.73, and 279.74(b) are met, and so long as the used oil is not mixed or contaminated with hazardous waste. On-specification used oil that is re-refined or disposed, rather than burned for energy recovery, is subject to all applicable requirements of Part 279.

The requirements at 279.72, 279.73 and 279.74(b) for handling on-specification used oil apply to the first person to claim that the used oil is to be burned for energy recovery and that it meets the fuel specifications. For example, a service station dealer that generates used oil and claims that it is to be burned for energy recovery and that it meets the fuel specifications must test the oil to show that it is on specification as well as notify EPA and obtain an identification number. These requirements must be met prior to the used oil being shipped as on-specification used oil - the used oil cannot

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be shipped under the assumption that it is or will be blended into on-specification used oil. See 279.72(a) and 279.61(b)(2). Any used oil handler that blends used oil in order to meet the specification is a used oil processor and subject to Subpart F of Part 279.

In addition, the regulatory status of used oil must be reevaluated prior to re-refining or disposing of on-specification used oil. A used oil handler must reevaluate the regulatory status of the on-specification used oil if some action is taken that may affect the chemical or physical properties of the used oil, for example mixing the used oil with something other than on-specification used oil or fuel, or storage under conditions that may contaminate the used oil. If the used oil, a resultant mixture of the used oil and a fuel, or any processed derivative of the used oil does not meet the fuel specification, the used oil must be handled as an off-specification used oil.

Specific management of on-specification used oil conditionally excluded from Part 279 (upon satisfying the requirements of 279.72, 279.73 and 279.74(b)) may still be subject to regulation under other Federal statutes as well as state regulations. Used oil may be covered by regulations concerning storage under the Spill Prevention Control and Countermeasures regulations at 40 CFR Part 112 as well as the Underground and Aboveground Storage Tank requirements at 40 CFR Part 280 and transportation requirements promulgated by the Department of Transportation.

I hope this information is helpful to you as you work through used oil issues with your regulated community and other state environmental agencies.

Sincerely yours,

Michael Shapiro, Director
Office of Solid Waste