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

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

August 14, 1996

Douglas Green
Piper and Marbury
1200 Nineteenth St., NW
Washington, D.C. 20035-2430

Dear Mr. Green:

This letter is in response to Edison Electric Institute's request for clarification of the applicability of the Used Oil Management Standards (Part 279) to materials that are contaminated with used oil and provide little or no energy when burned.

Unless burned for energy recovery, materials contaminated with used oil are not covered under Part 279 if "the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material" (see, 40 CFR 279.10(c)). The recycling of any oil drained from the material is regulated under Part 279.

Contaminated materials (after draining) are regulated under Part 279 if the material is burned for energy recovery (see 40 CFR Part 279.10(c)(2)). For example, some sorbents have a high British thermal unit (BTU) value and once contaminated with used oil are managed by burning for energy recovery and, therefore, are regulated under Part 279. Contaminated materials (after draining) which provide little or no energy when burned, such as soil or clay based sorbents, are not subject to Part 279. Whether a material is "burned for energy recovery" depends on the type of materials being burned and the combustion equipment being used. For purposes of the EPA regulations governing boilers and industrial furnaces, burning for energy recovery is limited to materials that have a heating value of at least 5,000 BTUs/pound (see, 40 CFR 266.100(c)(2)(ii); 56 FR 7134, 7143, February

RO 14111

21,1991). EPA believes it is reasonable and consistent with the regulations to apply the same interpretation under Part 279. Of course, an authorized state may interpret what constitutes "burning for energy recovery" more stringently than EPA and that interpretation could be controlling to the extent that the state's used oil management standards are in effect (as distinguished from the federal used oil management standards set out at 40 CFR Part 279).

Any material from which free-flowing used oil has been drained and that is subject to a hazardous waste determination as described in 40 CFR Part 262.11 may therefore be subject to Resource Conservation and Recovery Act Subtitle C regulation as hazardous waste. Materials that do not meet the definition of hazardous waste may still be subject to other applicable Federal, State, and local solid waste regulations.

Thank you for your interest in the safe and proper management of used oil.

Sincerely,

Michael Shapiro, Director
Office of Solid Waste