

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

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Kathryn Hohmann
Director of Environmental Quality
Sierra Club
408 C Street, NE
Washington, DC 20002

Dear Ms. Hohmann:

Thank you for your letter of May 6, 1998 concerning the applicability of the processed scrap metal exclusion to properly drained and crushed used oil filters. You expressed concern that applying the exclusion to used oil filters may not be protective of the environment. You are also concerned that making a policy interpretation in a letter does not allow for adequate public notice and comment. I will try to address both of your concerns in this letter.

In May 1997, the Environmental Protection Agency (EPA) issued a rule which excludes scrap metal from regulation as a solid waste under the Resource Conservation and Recovery Act (RCRA) if it is both "processed" and recycled. During the last six months, questions were raised to us regarding whether used oil filters are considered scrap metal and, if processed, could qualify for this regulatory exclusion. We met with interested parties on both sides of this issue regarding their concerns, and we visited a used oil filter recycling facility in Texas. The interested parties include used oil filter recyclers, used oil recyclers, filter manufacturers, scrap metal and steel recyclers, automotive dealers, quick lube facility owners, environmental groups, and state officials. The Agency also met with congressional staff on May 14, 1998 to discuss this issue. The Agency carefully considered the concerns of all parties.

On June 2, 1998, the Agency issued an interpretive letter stating that properly drained and crushed (i.e., "processed") used oil filters that are being recycled meet the processed scrap metal exclusion. This letter explains in detail the regulations that apply to used oil filters and processed scrap metal. I have enclosed a copy of this-letter for your convenience.

EPA believes that this policy will continue to ensure environmental protection. It is important to note that only used filters that are properly drained, processed (crushed) and recycled are eligible for the exclusion. In addition, regulatory controls remain in place to address concerns about residual oil that leaks out of processed used oil filters.

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Any residual oil that leaked out of a filter remains subject to EPA's comprehensive used oil management rules. To avoid liability under these rules, used oil filter recyclers could store properly drained and crushed filters so that any residual oil that leaks out can be collected (e.g., stored in appropriate containers). In addition, EPA expects this policy to encourage more used oil filter recycling.

Regarding your concerns about administrative process, EPA proposed and promulgated the processed scrap metal exclusion under standard regulatory procedures. While it is true that the proposed and final regulatory language did not specifically mention used oil filters, it also did not individually identify all other types of scrap metal that it covered. EPA intentionally wrote the rule broadly to cover all types of processed scrap metal that could legitimately be recycled. Thus, EPA concludes that adequate notice and opportunity to comment on this rule was provided.

Thank you for your interest in this matter. If you require further information, please do not hesitate to contact me at (703) 308-8894 or my staff: Tom Rinehart at (703) 308-4309 or Kristina Meson at (703) 308-8488.

Sincerely,

Michael Flynn
Associate Director
Hazardous Waste Identification
Division
Office of Solid Waste

Enclosure