Ms. Mary Beth Bosco
Patton Boggs, LLP
2550 M Street, N.W.
Washington, DC 20037-1350

Dear Ms. Bosco:

Thank you for your June 19, 1998 letter regarding used oil-fired space heaters. Specifically, you inquired about whether a used oil-fired space heater can be considered a utility boiler, if it exceeds 0.5 million Btu per hour in capacity.

On November 29, 1985, the Agency issued regulations that govern used oil marketing and burning of off-specification used oil (50 FR 49164). These regulations include an exemption from the off-specification used oil burner requirements for on-site used oil-fired space heaters (now at 40 CFR 279.23). This exemption has three conditions: 1) the heater bums only used oil that the owner or operator generates or used oil received from household do-it-yourself (DIY) used oil generators; 2) the heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and 3) the combustion gases from the heater are vented to the ambient air. This exemption allows used oil generators to bum their own used oil and DIY used oil in an on-site space heater without having to determine whether the used oil meets the fuel specification. In the preamble to the 1985 regulations (50 FR at 49194), the Agency was clear that it intended to prevent operators of larger boilers from taking advantage of this exemption.

Utility boilers are defined at 40 CFR 279.61(a)(ii) as boilers (defined in 40 CFR 260.10) used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale. EPA intended the definition of utility boiler to apply to large boilers that have emissions controls similar to industrial boilers and furnaces (defined at 40 CFR 279.61(a)(I)). Examples are coal or oil burning power plants operated by electric utilities. A small on-site used oil-fired space heater that is designed so that it exceeds the 0.5 million Btu per hour limit would not be considered a utility boiler even if energy created by the burner is being sold.

Off-specification used oil may only be burned in industrial furnaces, industrial boilers, utility boilers, and used oil-fired space heaters that meet the provisions of the space heater exemption (see 40 CFR 279.61). A used oil-tired space heater that does not

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meet the provisions of the space heater exemption is considered a nonindustrial boiler which is prohibited from burning off-specification used oil (40 CFR 279.12). Thus. a used oil generator would have to determine that their used oil generated on-site meets the used oil fuel specification prior to burning it for energy recovery in a high Btu space heater. By doing this. the generator would be subject to the used oil marketer requirements of 40 CFR Part 279, Subpart H.

If you have any further questions regarding the burning of used oil in space heaters, please call Tom Rinehart of my staff at (703) 308-4309.

Sincerely,

David Bussard, Director
Hazardous Waste Identification
Division
Office of Solid Waste

June 19, 1998

By Hand

Thomas Rinehart
Used Oil Coordinator
United States Environmental Protection Association
401 M Street, S.W./5304 W
Washington, D.C. 20460

Re: Interpretation of used oil management regulations

Dear Mr. Rinehart:

I am writing to you on behalf of the Used Oil Management Association ("UOMA"). UOMA is a member of the Used Oil Coalition, and I very much appreciated your taking the time to speak with us on June 2, 1998.

UOMA is the trade association representing the manufacturers of used oil-fired heaters that operate in accordance with the standards set forth at 40 C.F.R. §260.23.

As you are already aware, UOMA has encountered an issue relating to the burning of used oil in units with capacities exceeding the 500,000 Btu limit set forth at 40 C.F.R. §260.23(b). I would like to submit this issue to you for your review and comment, so that I can advise my clients accordingly.

Subpart G of EPA's used oil management regulations governs used oil burners who burn off-specification used oil for energy recovery. Pursuant to 40 C.F.R. §279.60(a)(1), used oil-fired space heaters that meet the three conditions of 40 C.F.R. §279.231 are not subject to the requirements of Subpart G. In contrast, "utility boilers" that burn off-specification used oil for energy recovery are subject to the Subpart G requirements. The issue is how to define and regulate a unit with a Btu capacity of greater than 500,000

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1 The heater can burn only used oil generated on site or by do-it-yourself oil changers; the heater is designed to have a maximum capacity of not more than .5 million btu per hour; and the combustion gases from the heater are vented to the ambient air.

Btu capacity, including smaller units that are combined and use the same flue, thereby exceeding the 500,000 Btu limit.

The term "boiler" is defined at Section 260.10, and would seem to include a used oil-fired heater. As far as I can determine, however, the term "utility boiler" is not further defined in the used oil management regulations or in the Resource Conservation and Recovery Act. The issue for which UOMA seeks clarification is this: can a unit burning used oil for energy recovery that exceeds 500,000 Btus be categorized as a "utility boiler" under 40 C.F.R. §279.61(a)(2)(ii), so long as it otherwise meets all of the other requirements contained in Subpart G?

I would appreciate the opportunity to discuss this with you at your earliest convenience. A correct understanding of your regulations is of utmost importance to the members of UOMA. In the meantime, if you have any questions, or require further information from me, please do not hesitate to contact me.

Sincerely,

Mary Beth Bosco
Regulatory Counsel for the Used Oil
Management Association

Encl.

cc: UOMA Members
        Timothy A. Vanderver, jr.