

Mr. Greg Gunzelman
U.S. Liquids, Inc.
411 N. Sam Houston Parkway, East
Suite 400
Houston, TX 77060

Dear Mr. Gunzelman:

Thank you for your letter of April 29, 2002, regarding the management of used oil. You ask whether EPA considers used oil that meets the Resource Conservation and Recovery Act (RCRA) fuel specifications, and has a PCB concentration of less than 2 ppm, to be on-specification when burned for energy recovery.

Used oil that is to be burned for energy recovery and that meets the RCRA fuel specifications of 40 CFR § 279.11 is not regulated under the authority of Part 279 provided that: (1) certain conditions for used oil fuel marketers are met, and (2) so long as the used oil is not mixed or contaminated with hazardous waste. This is the case, notwithstanding that a used oil fuel may contain PCBs. Although the RCRA regulations do not identify the presence of PCBs in used oil as relevant to the determination of whether the used oil is on- or off-specification, the presence of PCBs in used oil is relevant for determining the applicability of the Toxic Substances Control Act (TSCA) regulations for the burning of used oil.

The TSCA rules (specifically, 40 CFR § 761.20(e)(2)) establish a presumption that detectable quantities of PCBs are present in used oils to be burned for energy recovery. The presumption can be overcome if a marketer determines through testing or other specified procedures that the used oil fuel does not contain quantifiable levels (2 ppm) of PCBs. Therefore, used oil that is to be burned for energy recovery and has been shown to contain less than 2 ppm of PCBs is not regulated under TSCA and is solely regulated under RCRA.

I appreciate your interest in the safe and effective management of used oil.

Sincerely yours,

Elizabeth A. Cotsworth, Director
Office of Solid Waste

RO 14606