



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

JUN 10 2014

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

Linda S. Adams  
Clean Tech Advocates  
1215 K Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Dear Ms. Adams:

Thank you for your May 28, 2014 letter to Assistant Administrator Mathy Stanislaus requesting clarification whether vegetable or animal oil-based lubricants, when used, are regulated as used oil under the 40 CFR part 279 Used Oil Management Standards.

The definition of used oil, according to 40 CFR 279.1 is as follows:

*Used oil means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.*

The Environmental Protection Agency (EPA) has held the policy that vegetable and animal oils “are not regulated under the used oil management standards,” because they are not synthetic or derived from crude oil (see RCRA Online No. 14018; February 7, 1997 and RCRA Online No. 14090, April 1997). Therefore, bio-oils (e.g., vegetable and animal oils) that have been used as lubricants, or for other industrial purposes, are not regulated under the used oil management standards of part 279. These oils could, however, be waste oils subject to regulation as a solid, and potentially hazardous, waste (e.g., if they pick up hazardous constituents during use) under the Resource Conservation and Recovery Act.

We are aware of California’s Senate Bill 916 (SB 916) that would have established a state standard that motor oils contain a percentage of bio-content. We have also heard concerns about SB 916, specifically that motor oil containing any bio-content would not, after use, meet EPA’s definition of used oil. While our 1997 policy regarding vegetable and animal oils addressed only those oils derived solely from plant or animal sources, that policy did not envision those situations where such oils would be mixed with conventional motor oils prior to use. We believe that such formulations, once used, could be regulated as used oil under part 279, because the resulting used oil mixture still fits within the used oil definition. We do not believe the definition of used oil precludes the use of additives in oil formulations.

You suggest that the used oil mixture provisions of §279.10(b) and (c) mean that mixing a (used) bio-based lubricant with used oil would simply result in more used oil. We agree, as long as the bio-based

lubricants, as well as the resulting mixture meets the applicable mixing criteria described in §279.10(b) and (c).

I appreciate your interest in clarifying how the used oil regulations apply to bio-based lubricants. If you have further questions, please contact Jeff Gaines of my staff at (703) 308-8655.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl S. Coleman / Acting for".

Barnes Johnson, Director

Office of Resource Conservation and Recovery



## CLEANTECHADVOCATES

May 28, 2014

Mathy Stanislaus  
Assistant Administrator  
Office of Solid Waste and Emergency Response  
USEPA Headquarters  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, N.W.  
**Mail Code:** 5101T  
Washington, DC 20460

Dear Assistant Administrator Stanislaus:

On January 27, 2014 Senate Bill 916 was introduced in California by Senator Lou Correa to set a standard that motor oils contain a percentage of bio-content. The bill has not progressed, but the effort highlighted the need of many stakeholders for clarification from the USEPA regarding the definition of "Used Oil."

Soon after, a re-refiner was quoted in the media saying "the EPA *prohibits* used motor oil from containing animal or vegetable oils." This argument was echoed in a February 25, 2014 position paper from NORA, formerly known as the National Oil Recyclers Association under the heading: "Bio-based lubricants cannot be managed under the EPA's used oil regulations." That paper along with a detailed response is attached.

They contend it's illegal to accept and recycle Used Oil containing any amount of animal or vegetable oil per RCRA's definition in 40 CFR Part 279: "Used Oil means any oil that has been refined from crude oil. Or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities." <http://www.gpo.gov/fdsys/pkg/CFR-2013-title40-vol28/pdf/CFR-2013-title40-vol28-sec279-1.pdf>

To complete the argument, they point to an EPA website article, "Managing Used Oil: Advice for Small Business" that states: "Used Oil must have been refined from crude oil or made from synthetic materials. Animal and vegetable oils are excluded from EPA's definition of Used Oil." <http://www.epa.gov/osw/conserve/materials/usedoil/usedoil.htm>

However, a continued reading of the code seems to indicate the mixing of bio-based lubricants with Used Oil would simply result in more Used Oil per the mixture rules set forth in 40 CFR 279.10(b) and (c). <http://www.gpo.gov/fdsys/pkg/CFR-2013-title40-vol28/xml/CFR-2013-title40-vol28-sec279-10.xml> The CWA also defines oil as "oil of any kind or in any form" and EPA has further defined the term to specifically include "vegetable oils, including oils from seeds, nuts, fruit, or kernels" along with petroleum, synthetic, and animal-based oils or greases, among other types of oil. (40 C.F.R. § 112.2)

Recent EPA efforts are consistent with this position. In March, 2013 the EPA introduced the Vessel General Permit (VGP), which *requires vessels to use Environmentally Acceptable Lubricants* (EALs). EALs include both vegetable oils and synthetic esters derived from bio-based materials.

Clarification that any oil (including vegetable or animal oil), identified as a non-RCRA hazardous waste and used as a lubricant or for other similar industrial purposes may be managed as Used Oil, would be greatly appreciated.

Respectfully,

Secretary Linda S. Adams  
(CalEPA Retired)