

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
P.O. BOX 942732
SACRAMENTO, CA 94234-7320

(916) 324-1807

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JAN 16 1990

TO: Used Oil Transporters, Recycling Facilities,
and Regulatory Agencies

SUBJECT: USED OIL COLLECTED FROM CONDITIONALLY EXEMPT SMALL
QUANTITY GENERATORS AND HOUSEHOLDERS

This memorandum is to inform you of the Department's policy concerning the regulation of used oil collected from householders and conditionally exempt small quantity generators. The Department is following the U.S. Environmental Protection Agency (EPA) regulations that allow used oil that is presumed to be mixed with hazardous halogenated compounds and which has been collected from conditionally exempt small quantity generators to be managed as "used oil" rather than as a RCRA hazardous waste. The Department is using Title 40, Code of Federal Regulations (40 CFR), Subpart E of Part 266 and Health and Safety Code (HSC) Article 13 for the proper management of this type of used oil. The following information should help to explain the regulation of this special category of used oil.

1) The presumptive mixing rule, 40 CFR Section 266.40(c), states that used oil which is destined to be used as a fuel and is found to contain more than 1000 ppm total halogenated compounds shall be managed as hazardous waste unless it can be shown that the used oil does not contain significant quantities of hazardous halogenated compounds. 40 CFR Section 261.5(j) provides that used oil collected from conditionally exempt small quantity generators, as defined in 40 CFR Section 261.5(a), be managed as used oil (under 40 CFR Part 266, Subpart E) rather than as hazardous waste if it is destined to be used as fuel. The U.S. EPA also exempts householder's hazardous waste (40 CFR Section 261.4(b)(1)).

2) A generator is a conditionally exempt small quantity generator if no more than 100 kilograms (about 27 gallons) of RCRA regulated hazardous waste is generated during that specific month (40 CFR, Section 261.5). A container or tank that contains more than 27 gallons of used oil collected only from conditionally exempt small quantity generators, as specified under 40 CFR Section 261.5, would, of course, be exempt under the federal requirements.

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3) Collection locations such as service stations, marinas, county household hazardous waste collection points, recycling centers, and others can manage used oil containing more than 1000 ppm total halogens under state used oil requirements (HSC Article 13 and other applicable laws and regulations) if the used oil is collected only from conditionally exempt small quantity generators or householders.

4) Service stations should not place used oil received from conditionally exempt small quantity generators or householders in the same container or tank as the used oil generated onsite if that service station generates more than 27 gallons of used oil a month. (Note: this is not a legally binding requirement but rather advice to assure that the service station's own waste does not become contaminated.)

5) The mixing of conditionally exempt small quantity generators' and householders' used oil with used oil collected from larger generators which has been shown to contain less than 1000 ppm total halogens is permissible. Modified manifesting can be used with loads containing mixtures described in the preceding sentence. It is recommended that the collected used oil (from small quantity generators) be tested, using a field kit, prior to shipment offsite. This testing is usually done by the hauler. (Note: we are not recommending that each load of used oil brought into a household collection location be tested.) The quantity and concentration should be recorded on the modified manifesting receipt (one copy to generator and one copy for hauler) for future reference.

6) Used oil collected from conditionally exempt generators and householders can be transferred to state authorized used oil recycling facilities for reprocessing or rerefining (if reprocessing is also carried out in the same system).

7) Although used oil meeting these requirements is exempt from regulation as a RCRA hazardous waste, generators, collection locations, transporters, and recycling facilities should maintain records of halogen concentrations, quantities, and contributors so that there is no question as to whether the federal requirements are being followed. Collection locations need not gather the householder's identity or test his or her used oil for halogen content. If enforcement questions arise concerning amounts of contamination, it is the hauler's or hazardous waste facility's responsibility to show that these provisions have been followed.

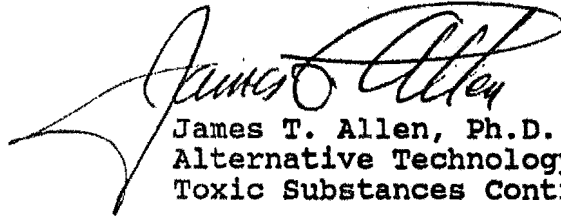
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It is the U.S. EPA's and the Department's understanding that used oil generated as household hazardous waste will not contain significant concentrations of hazardous halogenated compounds. There are only a few automotive products used by householders that contain hazardous halogenated compounds.

The Department will be conducting a survey to ensure that such used oil does not contain significant amounts of hazardous halogenated compounds, and that the regulation of this category of used oil does not present significant environmental concerns. If you have questions regarding this subject, please review 40 CFR Section 261.5, 40 CFR Part 266 Subpart D and E, the final rule regarding used oil burned for energy recovery found in the November 29, 1985 Federal Register, HSC Article 13, or contact Leif Peterson of the Alternative Technology Division at (916) 322-1005.



James T. Allen, Ph.D., Chief
Alternative Technology Division
Toxic Substances Control Program

cc: Val Siebal, Regional Administrator
Region 1/SACRAMENTO
Toxic Substances Control Program
Department of Health Services
Attn: Surveillance and Enforcement
10151 Croydon Way
Sacramento, CA 95827

Howard Hatayama, Chief
Region 2/BERKELEY
Toxic Substances Control Program
Department of Health Services
Attn: Surveillance and Enforcement
700 Heinz Avenue, Bldg. F, 2nd Floor
Berkeley, CA 94710

Dennis Dickerson, Chief
Region 3/BURBANK
Toxic Substances Control Program
Department of Health Services
Attn: Surveillance and Enforcement
1405 N. San Fernando Blvd.
Burbank, CA 91504

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John J. Kearns, Chief
Region 4/LONG BEACH
Toxic Substances Control Program
Department of Health Services
Attn: Surveillance and Enforcement
245 West Broadway, Room 350
Long Beach, CA 90802

Ted Rauh, Chief
Program and Administrative Support Division
Toxic Substances Control Program
Department of Health Services
714/744 P Street
P.O. Box 942732
Sacramento, CA 94234-7320

William Soo Hoo, Chief
Toxics Legal Office
Toxic Substances Control Program
Department of Health Services
714/744 P Street
P.O. Box 942732
Sacramento, CA 94234-7320