

9495.1986(20)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

AUG 22 1986

Mr. Jed Mandel
Jenner & Block
One IBM Plaza
Chicago, IL 60611

Dear Mr. Mandel:

I am writing in response to your letter requesting an interpretation of EPA's proposed listing of used oil as a hazardous waste that was published in the Federal Register on November 29, 1985. In particular, you ask whether the hydraulic devices that your client manufactures would be considered as hazardous waste by the mixture rules when these devices become contaminated with oil during quality control testing conducted prior to their sale and distribution.

As described in 40 CFR _261.3, the mixture rule applies only to mixtures of solid waste and hazardous waste. These hydraulic devices do not meet the definition of a solid waste (see 40 CFR _261.2) because they are products that are manufactured for sale and are not discarded or intended to be discarded. Thus, if used oil were to be listed as a hazardous waste and subsequently "mixed" with these hydraulic devices, the resulting mixture would not be a hazardous waste according to the mixture rule.

It must be noted that used oil drained from these hydraulic devices would be a hazardous waste if the oil exhibits a hazardous characteristic as described in 40 CFR __261.21 - 261.24, or if used oil is listed as a hazardous waste as proposed in the November 29 notice, unless this used oil is reused for its original purpose (i.e., in testing hydraulic devices).

If you have any additional questions regarding the proposed rules, you may contact me at (202) 475-8551.

Sincerely,

Booz·Allen & Hamilton, Inc.
Faxback 11175

Matthew Straus
Chief

—