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United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

September 24, 1993

Mr. Christopher Harris
General Counsel
National Oil Recyclers Association
The Evening Star Building
Suite 800
1101 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Mr. Harris:

Thank you for your letter dated July 19, 1993 regarding the Recycled Used Oil Management Standards. Specifically, you requested confirmation of your interpretation of the used oil management standards as they pertain to mixtures of used oil and characteristic hazardous waste.

In response to your request, this letter provides clarification of the used oil regulations applicable to mixtures of used oil and characteristic waste. The used oil regulations distinguish between mixtures of used oil and ignitable-only characteristic waste and all other used oil/characteristic hazardous waste mixtures. Under section 279.10(b)(2)(ii), mixtures of used oil and a characteristic hazardous waste that solely exhibits one or more hazardous waste characteristics identified in 40 CFR Part 261 subpart C (other than ignitable only characteristic waste) and mixtures of used oil and hazardous waste that is listed in subpart D solely because it exhibits one or more of the characteristics of hazardous waste identified in subpart C (other than ignitable-only characteristic waste) are regulated as used oil if the resultant mixture does not exhibit any hazardous waste characteristics. On the other hand, these mixtures are regulated as hazardous wastes if they display any characteristic of hazardous waste.

Under section 279.10(b)(2)(iii), mixtures of used oil and

ignitable-only characteristic hazardous waste (e.g., mineral spirits) are regulated as used oil provided that they do not exhibit the characteristic of ignitability. The rationale for distinguishing between ignitable only solvents and other characteristic hazardous waste is as follows. If the solvents are hazardous only because of ignitability, then mixing the solvents with used oil should not affect the chemical constituents or other properties of the used oil. The solvents in question (e.g., mineral spirits) are petroleum fractions that are typically used by the same businesses that generate used oil and are managed in a manner similar to used oil (e.g., burning for energy recovery or distillation to recover the solvent). Therefore, EPA believes these mixtures can and will be properly managed as used oil. If the mixture exhibits ignitability, however, this can mean that the mixing has changed the nature of the hazards involved in managing the used oil, and the mixture should remain subject to hazardous waste controls.

Regarding the applicability of section 279.10(b)(2), as correctly stated in your letter, the provisions are not limited to generators but apply also to marketers, processors/re-refiners, transporters, and burners.

Finally, you are correct in stating that the used oil regulations promulgated at section 279.10(b)(2)(ii) do not establish new policy but reiterate existing EPA policy. However, the section 279.10(b)(2)(iii) provisions pertaining to ignitable only characteristic waste do constitute a change from (or expansion of) previous regulatory policy. If you have any further questions on these or other matters pertaining to the used oil management standards, please call Eydie Pines at (202) 260-3509.

Sincerely,
Jeffery D. Denit
Acting Director
Office of Solid Waste