

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

MARCH 25 1997

MEMORANDUM

SUBJECT: Status of the Recycling Amendments Proposed in the Listing Determination for Petroleum Refining Process Wastes

FROM: Elizabeth A. Cotsworth, Acting Director  
Office of Solid Waste

TO: Addressees

The purpose of this memorandum is to alert you of the status of certain regulatory amendments of particular interest to the petroleum refining industry. The industry is concerned that current delays in promulgating these amendments could lead some States or Regions to assume the Agency is changing its mind on them. This memorandum confirms that the Agency is continuing to pursue certain regulatory changes addressing specific recycling activities of petroleum refining residues in the final Listing Determination on Petroleum Refining Process Wastes.

Proposed changes in the way the Agency deals with recycled oil-bearing secondary materials were presented to the public for comment in the proposed RCRA Listing Determination on Petroleum Refining Process Wastes, issued on November 20, 1995 (60 **FR** 57747). In it, EPA proposed a number of modifications to the status of certain petroleum residuals that would allow them to be recycled. This proposed listing determination was issued under the terms of the Environmental Defense Fund (EDF) consent decree with EPA that required the final rule to be issued by October 31, 1996. A recent deadline extension was negotiated, however, with EDF to enable EPA to issue a Notice of Data Availability (NODA). The NODA was prompted by comments on the risk assessment supporting the proposed listings. The final rulemaking is now scheduled to be completed by April 30, 1998.

The Agency has received requests from the American Petroleum Institute and certain oil companies to separate the proposed recycling amendments to 40 CFR 261.4(a)(12) from the proposed listing determination and to promulgate regulations for the recycling amendments on a "fast track" - in advance of the April 30, 1998 deadline. The reason they have given is that many refineries have significantly modified or refrained from what they perceive as beneficial recycling activities due to uncertainty over the status of recycled refining residuals.

We have told the industry that we cannot split this final rulemaking into two parts and "fast track" the recycling amendments. While the recycling amendments are not required to be considered in the listing determination, the Agency believes it is a more efficient use of Agency resources to finalize both the proposed recycling amendments and the listing determination concurrently. In addition, the Agency must

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respond to the numerous comments on the recycling amendments as well as include additional information and clarification on several related issues in the upcoming NODA.

The Agency received both positive and negative comments on the proposed amendments to 40 CFR 261.4(a)(12) during the public comment period for the November 20, 1995 Federal Register notice (60 F.R. 57747). Although conflicting options exist among comments, the Agency is still committed to a rulemaking addressing the recycling of petroleum refining residues. Therefore, a delay in a final rule should not be interpreted as a reluctance on the part of the Agency to address these recycling amendments in the final petroleum refining waste listing rule.

If you have any questions or comments or would like to discuss this matter further, please contact me at (703)308-8895 or have your staff contact William F. (Rick) Brandes, Chief, Waste Identification Branch at (703)308-8890.

Addressees:

RCRA Senior Policy Advisors, Regions I-X

Region I, Harley Lang, Director, Office of Environmental Stewardship

Region II, Conrad Simon, Director, Division of Enforcement and Compliance Assurance

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