Mr. Christoper Harris
Harris, Tarlow & Stonecipher
1439 West Babcock
Bozeman, Montana 59715

Dear Mr. Harris:

Thank you for your letter of September 17, 1998 requesting an interpretation of the federal used oil regulations. Based on subsequent conversations between you and my staff, you specifically asked whether a spent petroleum-based solvent that includes oily residues as a result of the solvent's use to clean machine parts would be regulated as used oil under 40 CFR Part 279. The Agency does not consider such spent petroleum-based solvent to be used oil and did not intend that it be regulated as such. Accordingly, when a petroleum-based solvent is spent (i.e., no longer possesses a solvent property) and/or is taken out of service, it becomes a waste subject to a hazardous waste determination (see 40 CFR 262.11). Generators may use their knowledge or testing to determine whether a waste is hazardous.

When the Agency promulgated the Used Oil Management Standards (57 FR 41566, September 10, 1992) it discussed its view that spent petroleum-based solvents are not included in the definition of used oil. Specifically, the preamble states: "(t)oday's definition (of used oil) does not include oil-based products used as solvents refined from crude oil or manufactured from synthetic materials. The Agency has always viewed petroleum-based solvents as wastes separate and distinct from used oil" (57 FR 41566 at 41574).

The Agency continues to view spent petroleum-based solvents as wastes separate and distinct from used oil, because the source of contamination in used petroleum-based solvents is difficult to determine. Petroleum-based solvents, for instance, are used as cleaning agents, degreasing fluids, and part-cleaning solvents in the automotive and vehicle maintenance industry, in metalworking operations, and in other similar applications. The process of removing oily residues from parts with a petroleum-based solvent not only removes the oily residues by chemically dissolving

them, but it also may remove solids or other organic-based materials such as metal shavings, waste gasoline, polychlorinated biphenyls, pesticides, and chlorinated solvents.

Of course, spent petroleum-based solvents that are intentionally mixed with batches of used oil (to make fuel oils, for example) can be regulated as used oil as provided in 40 CFR 279.10(b). It is important to note, however, that even though a solvent may be ignitable-only or non-hazardous prior to use, once the solvent has been used, it may contain other hazardous contaminants as a result of that usage. Therefore, a hazardous waste determination would be required prior to mixing spent solvents with batches of used oil.

Finally, it is also important to note, that EPA regional offices and states authorized to implement the RCRA program make determinations regarding the requirements that apply in specific situations. Also, some states have programs that are more stringent than the federal hazardous waste and used oil programs. If you have any further questions regarding the federal used oil regulations, please contact Mike Svizzero of my staff at (703) 308-0046.

Sincerely,

Stephen Heare, Acting Director
Permits and State Programs Division