

PPC 9494.1986(02)

WASTE-AS-FUEL RULES AT DOD FACILITIES, IMPLEMENTATION

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAR 19 1986

MEMORANDUM

SUBJECT: Implementation of the Waste-As-Fuel Rules at DoD  
Facilities

FROM: Marcia E. Williams  
Director  
Office of Solid Waste (WH-562)

TO: Hazardous Waste Division Directors, Regions I-X

The Department of Defense (DoD) has developed what we think is an effective and efficient approach to implement the November 29, 1985, waste-as-fuel final rules applicable to used oils and hazardous wastes generated at military bases. DoD asked that we pass on to you an explanation of their approach (copy attached). If you have questions or comments, please contact Bob Holloway of my office at 382-7917, or Joe Kaminski, Office of the Secretary of Defense, at (202) 653-1273.

The waste-as-fuel rules regulate marketers and burners of hazardous waste and off-specification used oil fuels. Military bases typically generated used oils, and sometimes generate hazardous wastes, either of which may be sent off site for ultimate use as fuel, or burned on site. When used oil or hazardous waste is shipped off site for use as fuel, the marketing transactions are typically handled by a DoD unit called the Defense Reutilization and Marketing Service (DRMS) or one of its four regional offices referred to as DRMR's. The DRMS or DRMR's take responsibility for the waste fuel, including, for example, responsibility in case of a spill.

The essence of the attached explanation of DoD's implementation approach is that the DRMS or DRMR's will comply with the marketer requirements. The military bases are ordinary generators not subject to the marketer requirements. The DRMS or DRMR's will use their business address as "location" on the notification form. Invoices for off-specification used oil and manifests for

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-2-

hazardous waste fuels will, however, indicate the address of the shipping facility -- the military base generating the waste -- according to our rules.

DoD notes that when a military base burns waste fuels, the base will notify as a burner and comply with the burner requirements.

DoD's approach is acceptable because the DRMS or DRMR's act as independent brokers that take responsibility for the waste fuel, and, thus, are subject to regulation as marketers. The military base is an ordinary generator, not a marketer. This situation is analogous to situations in the private sector where a person is subject to regulation as a marketer if he takes title to the waste fuel. (Except, however, generators and initial transporters who do not market directly to burners are exempt from the marketer requirements.) Thus, brokers, transporters, and others who take title to used oil or hazardous waste fuels are regulated marketers. Transporters who take physical possession but not title to the waste fuel, however, are agents to a regulated marketer (e.g., a generator, processor, or burner) and are not themselves marketers.

Attachment

cc: Carl Schafer, Jr., DoD  
Gene Lucero, OWPE

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THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

ACQUISITION AND LOGISTICS

Ms. Marcia E. Williams, Director  
Office of Solid Waste  
U.S. Environmental Protection Agency  
401 M Street S.W.  
Washington, DC 20460

Dear Ms. Williams:

On January 30, 1986, a meeting was held between Mr. Robert Holloway of the Waste Management and Economics Division of the Office of Solid Waste and Mr. Joseph Kaminski of the Defense Environmental Leadership Project, Environmental Policy Directorate, Office of the Assistant Secretary of Defense to determine the application of the terms "generator," "burner," and "marketer" of used oil and hazardous waste fuel to the Department of Defense (DoD). The enclosed explanation confirms the outcome of the meeting and describes actions to be taken by DoD to comply with the reporting requirements of 40 CFR 266.

The procedure is consistent with protection of human health and the environment, identifies specific responsible persons and minimizes administrative overhead. Your assistance in advising the EPA Regions of the DoD procedure would be helpful in effecting timely and accurate notification. EPA cooperation in this matter is greatly appreciated.

Sincerely,

Original Document signed

Carl J. Schafer Jr.  
Director, Environmental Policy

Enclosure

cc: EPA Office of Federal Activities (A-104)

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## Explanation of Notification Procedure that the Department of Defense (DoD) Will Use to Comply With 40 CFR 266

The Defense Reutilization and Marketing Service (DRMS), headquartered at Battle Creek, MI is a primary level field activity of the Defense Logistics Agency (DLA). DRMS is responsible under the Federal Property and Administrative Services Act of 1949 (FPASA), as amended, for disposal of excess DoD "personal property" including used oil. DRMS therefore assumes primary responsibility within DoD for marketing used oil fuel and hazardous waste fuel as required by 40 CFR 266. DRMS conducts business through four regional offices within the purview of 40 CFR 266. These Defense Reutilization and Marketing Regions (DRMR) are located at Memphis, TN, Columbus, OH, Ogden UT, and Camp H. M. Smith, HI.

Used oil generators at Military Bases turn administrative control and sometimes physical custody of their used oil over to DRMS on a standard form, DD 1348-1. Acting similar to civilian "brokers," the DRMR's or DRMS headquarters execute contracts for transfer of used oil to users of used oil or hazardous waste fuel. Authority to enter into and documentation of transfers currently exists at DRMS or its DRMR's. Therefore, DRMS and its DRMR's will notify as "other marketers" on EPA form 8700-12, using their business address as "location." DRMS headquarters or DRMR's will add to their recordkeeping applicable user notifications, proofs of used oil fuel quality, copies of manifests or invoices and will comply with all other marketer requirements of 40 CFR 266.

On occasion, DRMR's delegate authority to market used oil to field level agents at Defense Reutilization and Marketing Offices (DRMO) located on Military Bases. In addition, used oil is often transferred, under the FPASA, from a DRMO to other federal agencies and state governments through the General Services Administration (GSA) acting as a subsequent marketer. If used oil fuel or hazardous waste fuel marketing is done from an individual DRMO which maintains the documentation required by 40 CFR 266, then the DRMO will separately identify as "other marketer." The DRMO will use the address of the Military Base as location and the Base's EPA "Identification of Hazardous Waste Activity" number if previously assigned. The appropriate official of the DRMS will sign the form.

DoD Military Bases are generators of used oil or hazardous waste fuel and will not notify as marketers unless they transfer used oil fuel or hazardous waste fuel outside of DoD without going through DRMS. DoD Military Bases that claim the exemption for using used oil fuel that meets 40 CFR 266 specification or burn off-specification used oil fuel or hazardous waste fuel will notify as "burners" on EPA form 8700-12 and assure that they meet all other applicable criteria of 40 CFR 266. The Base's "Identification of Hazardous Waste Activity" number will be used if previously assigned and an appropriate official of the Base or its Command will sign the form.

The procedure described herein applies only to the provisions in 40 CFR 266 on marketing and burning of used oil and hazardous waste fuel. Any management activity such as generation, storage, transportation and disposal of used oil that is hazardous waste regulated under 40 CFR 261-265 and 270 or 271 shall be adhered to by the DoD Component to which the regulation applies.

This procedure must be reviewed by EPA and DoD and re-established or revised, or it is automatically cancelled on the effective date of 40 CFR 266 revisions promulgating "Recycled Used Oil Standards" or 40 CFR 261 revisions "Listing" used oil as hazardous waste, which were proposed on November 29, 1985.

This is an administrative procedure only and in no way relieves or alters the requirement for the Department of Defense to comply with all applicable regulations implemented in accordance with the Federal Solid Waste Disposal Act as amended, 42 USC 6901 et seq.