

MAR 22, 1985

Mr. William F. O'Keefe  
American Petroleum Institute  
1220 L Street Northwest  
Washington, D.C. 20005

Dear Mr. O'Keefe:

During our meeting on March 20, 1985, API expressed concern with respect to the regulatory status of petroleum products that are derived from a hazardous waste that is generated by the refining process and reintroduced into the process. As we indicated at the meeting, EPA did not intend to regulate (in the context of the January 4<sup>th</sup> rules) such petroleum products. To correct this unintended result, we are preparing a technical correction notice which will, among other things, explicitly exempt from regulation (at this time) those petroleum products. The language of the exemption will parallel the warning label exemption for petroleum products provided by Section 3004(r) of the Hazardous and Solid waste Amendments of 1984 and so applies to fuels that are produced when a petroleum refinery reintroduces indigenous petroleum refinery hazardous wastes into the refining process. The issue of regulation of these petroleum products will be deferred to the rulemaking on burning and blending hazardous waste fuels that was proposed on January 11, 1985. I understand that Walter Retzsch of API has already been in touch with Robert Holloway, of my staff, to determine what additional information we may need to consider a final exemption of such petroleum products from the burning and blending rules.

In a related issue, you also expressed concern with regard to the jurisdictional status of oils that are reclaimed from a hazardous waste (i.e., slop oils recovered from the slop oil system containing a hazardous waste). As we indicated, this issue -- whether such oils should be classified as wastes or products -- is a difficult one and one on which we will re-open the comment period. In particular, we will be requesting information on how the levels of toxic metals in the recovered oils compare to the levels found in crude oil. In addition, we also will request comment on the applicability of the closed-loop variance provision in §260.31(b) to the reintroduction of these recovered oils to the refining process.

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Finally, you also expressed concern with regard to the regulatory status of waste-derived products that are placed on the land. These products are currently exempt from regulation. See §266.20 (b); see also fn 37 at 50 FR 646 where we indicate that hazardous waste-derived asphalt is deferred from regulation. Therefore, we believe that no further change needs to be made to address these materials.

Please contact either Dave Sussman or Robert Holloway if you have questions on the types of information or data we would need to address the recovered oil issue. They can be reached at 382-7917. Any other questions you may have on the technical correction notice, please contact Steve Silverman at the Office of General Counsel. Steve can be reached at 382-7706.

Sincerely yours,

John H. Skinner  
Director  
Office of Solid Waste