



# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

February 21, 1992

Dear Used Oil Filter Enquirer:

In response to concerns on the proper management of used oil filters, EPA Region I has developed this letter and has enclosed a copy of the EPA Office of Solid Waste's (OSW) regulatory determination regarding used oil filters, dated October 30, 1990. This letter is the current position that EPA is taking toward used oil filters (UOFs). This letter summarizes EPA Region I's position regarding the appropriate management of UOFs and further attempts to answer some common questions and concerns regarding this topic. This discussion supersedes any previous letters that Region I has issued on this topic.

### Summary of UOF Memorandum

The October 1990 memo referenced above, is clear in stating that EPA advocates the "complete" recycling of UOFs, and that a determination of whether UOFs are a hazardous waste (pursuant to 40 C.F.R. § 262.11) is not necessary in instances where UOFs are drained, crushed and recycled for their scrap metal content. Based upon past analytical results and recent analytical data to verify whether used oil exhibits the toxicity characteristic (TC), it appears likely that used oil could contain elevated levels of contaminants such as lead, cadmium, chromium and/or benzene. The keys to avoid making a hazardous waste determination on your UOFs are:

- 1) Insuring that the waste oil recovered from the filters is managed accordingly (pursuant to 40 C.F.R. Part 266, Subpart E or 40 C.F.R. § 261.6(a)(3)(iii)); and
- 2) Insuring that the drained and crushed UOF cartridge is recycled to recover scrap metal pursuant to 40 C.F.R. § 261.6(a)(3)(iv)). The scrap metal cartridges should be sent to a facility that legitimately recycles scrap metal.

### Making a Proper Determination

There has also been a great deal of concern on how an adequate determination on UOFs can be made. This should be a generator's primary concern if he intends to handle UOFs as a non-hazardous waste and dispose of them, or if he determines that it is

necessary to manage UOFs as a hazardous waste. In either case, the generator must have adequate knowledge (with appropriate documentation) of the UOF's composition and/or analytical data to determine if a representative sample



If the drained UOFs leave your site in either a crushed or uncrushed state, manifesting as a hazardous waste would not be federally required provided that the receiving facility intends to recycle the reclaimable oil and the remaining filter cartridge. As a generator, you should obtain some manner of record to indicate that the oil filters will be recycled for their scrap metal content.

This record should include the quantity of and frequency that UOFs are shipped and the manner in which they will be handled. Be sure to discuss these issues with any facility that you intend to send UOFs to for recycling. You should also document how that facility intends to recycle the filters and the ultimate fate of the oil, metal cartridge and paper filter element. This information should be maintained at your site for a minimum of three (3) years from the date of shipment.

### New Developments in Waste Oil and UOF Regulation

Recently, EPA proposed a supplemental rulemaking that could affect all aspects of the management of waste oil and oily debris (such as UOFs). This Federal Register (FR) notice was published on September 23, 1991 (56 FR 48000). In short, this proposal outlined three options on EPA's appropriate characterization of used oil. The proposed rulemaking incorporated information primarily from EPA's 1985 study of used oil and new TCLP data evaluating the toxicity of used motor oils from a number of different sources.

The three alternatives that were proposed focus on the issue of listing used oil as a hazardous waste under 40 C.F.R. Part 261, Subpart D. Summarizing, they are:

- 1) Reinstate the November 29, 1985 (50 FR 49258) proposal to list all used oil as hazardous waste;
- 2) List only, those used piston-engine crankcase oils generated from automobiles and aircraft and marine vehicles, and subject the remaining used oils to the TC; and
- 3) Refrain from listing used oils as a hazardous waste and instead promulgate comprehensive management standards, with possibly listing used oils that are disposed of.

Regardless of which options will be pursued by EPA, you should be aware that these new standards could vastly change the manner in which you are currently managing used oil and oily debris. A supplemental rulemaking on this issue will be forthcoming once EPA has reviewed all comments that have been submitted regarding the proposal.



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

OCT 30 1990

OFFICE OF  
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Regulatory Determination on Used Oil Filters

FROM: Sylvia Lowrance, Director  
Office of Solid Waste

TO: Robert L. Duprey, Director (SHWM-RI)  
Hazardous Waste Management Division  
EPA Region VIII

Thank you for your memorandum of August 30, 1990, requesting a regulatory interpretation of the status of used oil filters under the new Toxicity Characteristic (TC). In your memorandum, you inquired about used oil filters that are crushed in vehicle maintenance shops, where a certain portion of the residual used oil in the filter is separated from the filter. The answers to the specific questions you asked are listed below.

1. The Toxicity Characteristic Leaching Procedure (TCLP) is performed on used oil filters by crushing, cutting or grinding the waste (filter plus contents) until the pieces are smaller than 1 centimeter in their narrowest dimension (and thus are capable of passing through a 9.5 mm standard sieve). See Step No. 7.3 of the TCLP. The surface area criterion referred to in Step 7.3 does not apply to used oil filters. (Note: If the generator recycles both the used oil and metal, you do not need to test because recycling of both types of materials is exempted from hazardous waste regulation as discussed below.)

2. and 3. Assuming a used oil filter exhibits the TC, you had inquired whether the act of crushing filters is regulated treatment or exempt recycling. Generally, the types of used oil filter crushers you described would not be regulated if the used oil was being recycled (see 40 CFR 261.6(a)(2)(iii) and (a)(3)(iii)). That is, since the purpose of the crushing is to remove the used oil for recycling, we view the crushing to fall within the used oil recycling exemption. The crushing may be performed on- or off-site, for profit or non-profit. The determining factor is whether the used oil will be recycled. The filter may be shipped off-site for crushing under the recycling exemption, provided the oil is collected for recycling.

4. Generally, automotive oil filters are not considered to be containers because they are designed to filter particulates from oil that circulates through them, not devices for the storage of oil. As a result, a filter could not be an "empty container" under 40 CFR 261.7. However, as described next, a drained or crushed filter is considered scrap metal, and scrap metal is exempt from regulation when recycled.

Under the definition of "solid waste," EPA has determined that "recycled hazardous scrap metal is a solid waste when disposed of or recycled" (see 50 FR 624, January 4, 1985). However, pursuant to section 261.6(a)(3)(iv), hazardous scrap metal is exempted from Subtitle C regulation when recycled. The scrap metal recycling exemption in 40 CFR 261.6(a)(3)(iv) is applicable to used oil filters (scrap metal) that are going to be recycled. However, an undrained or uncrushed oil filter would contain too much oil to qualify for the scrap metal exemption. The January 4, 1985 preamble provided examples of items qualifying for the exemption, such as bars, turnings, rods, sheets, wire (i.e., scrap metal that is going to be recycled to recover their metal content) and examples that do not qualify, including metal-containing waste with a significant liquid component, such as spent batteries.

To increase the probability that the used oil filter (hazardous scrap metal) will qualify for the scrap metal recycling exemption, the generator or recycling facility should drain (gravity) the filter for an amount of time sufficient to ensure that all free-flowing oil is removed. The amount of drain time will vary based on a number of variables, including the size of the filter and temperature (both ambient and that of the filter). Alternately, the generator or recycling facility could crush the oil filter using the most appropriate crushing method that will force excess residual oil from the filter. We will be examining this issue further, but we currently have no information indicating that substantial amounts of oil will remain in the filter after either sufficient draining or adequate crushing. As a best operating practice, the Agency recommends that the generator or recycling facility both drain and crush used oil filters to be certain that the used oil filters would qualify for the hazardous scrap metal recycling exemption.

If the crushed or drained filter will be recycled, it is unnecessary to determine whether it exhibits the TC because the scrap metal exemption is applicable. It would also be unnecessary to manifest these used oil filters if they will be recycled. However, if the filter will be disposed of, the generator must determine if it is hazardous under the TC. If the filter is hazardous waste, the 261.12 and 268 regulations apply to the generator, and Parts 264 and 265 apply to the treatment, storage and disposal facilities. If a waste filter may be disposed in a Subtitle D facility,

Finally, in the sales brochures you sent, there was mention of an open container used to accumulate the used oil after the filter was crushed. (Currently, used oil accumulation by generators is not regulated if the used oil is recycled, but EPA did propose that such containers be kept closed. See 50 FR 49252, November 29, 1985.) Storage or accumulation of characteristically hazardous used oil is regulated if the used oil is to be disposed of; in that case, the containers must be closed except when adding or removing the used oil (per §265.173(a)).

Please contact Daryl Moore at (202) 475-8551 if you have any additional questions on the applicability of the Federal hazardous waste regulations with respect to used oil filters.

cc: Waste Management Division Directors, Regions I - VII and IX - X  
Jeff Denit  
RCRA/Superfund Hotline  
Regional TC Contacts