



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

Office of
Enforcement and
Compliance Assurance

November 8, 2004

MEMORANDUM

SUBJECT: Model Application/Information Request for the Service Station Dealer Exemption under Section 114(c) of CERCLA

FROM: Susan E. Bromm, Director /s/
Office of Site Remediation Enforcement

TO: Director, Office of Site Remediation and Restoration, EPA Region I
Director, Emergency and Remedial Response Division, EPA Region II
Director, Hazardous Site Cleanup Division, EPA Region III
Director, Waste Management Division, EPA Region IV
Directors, Superfund Division, EPA Regions V, VI, VII and IX
Assistant Regional Administrator, Office of Ecosystems Protection and Remediation, EPA Region VIII
Director, Office of Environmental Cleanup, EPA Region X
Director, Office of Environmental Stewardship, EPA Region I
Director, Environmental Accountability Division, EPA Region IV
Regional Counsel, EPA Regions II, III, V, VI, VII, IX, and X
Assistant Regional Administrator, Office of Enforcement, Compliance, and Environmental Justice, EPA Region VIII

Attached to this memorandum is a copy of the new "Model Application/Information Request for CERCLA Service Station Dealer Exemption" and the Federal Register notice announcing its availability. This model will be another valuable tool in our efforts to improve implementation of the service station dealer exemption under section 114(c) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

We appreciate the contributions of your staff in the preparation of this model. If you have any questions about the model or the Service Station Dealer Exemption generally, please contact Susan Boushell (202-564-2173 or boushell.susan@epa.gov).

Attachments

cc: Paul Connor (OECA)
Kenneth Patterson (OECA)
Mike Cook (OSWER)
Scott Sherman (OGC)
Bruce Gelber (DOJ)

**MODEL APPLICATION/INFORMATION REQUEST
FOR CERCLA SERVICE STATION DEALER EXEMPTION**

[Date]

Certified Mail
Return Receipt Requested

[Recipient Name]
[Recipient Address]

Re: **Opportunity to Apply for Superfund Service Station Dealer Exemption**

Dear [Recipient]:

The United States Environmental Protection Agency (EPA) currently is working to clean up the [name] Site in [city, state] under the federal Superfund program because hazardous substances, including used oil, may pose a threat to human health or the environment at the Site.¹ EPA has reason to believe that your business may have sent used oil to the [name] Site and is sending this letter to you in an effort to evaluate whether some or all of that used oil may be exempt from liability under the Service Station Dealer Exemption, as described below.

Service Station Dealer Exemption

Our information indicates you sent used oil to the [name] Site, which means you may be liable under the Superfund program for some of the costs of cleaning it up. Please see Attachment 1 for the information EPA currently has connecting your business to the [name] Site. You may be liable even if you contracted with a licensed transporter who independently chose the [name] Site to recycle your used oil and even if your state regulates used oil as a non-hazardous waste. However, you may be exempt from liability for certain shipments of used oil to the [name] Site that occurred **after March 8, 1993** if the Service Station Dealer Exemption applies to you.²

¹ Please see EPA's web site at www.epa.gov/superfund/sites/cursites/index.htm for more information on the [name] Site.

² The exemption does not apply to shipments before March 8, 1993. Therefore, if Attachment 1 indicates that you also sent used oil to the [name] Site before March 8, 1993, you may be contacted by EPA regarding your potential liability at the Site for those shipments.

Under the exemption, a “service station dealer” includes any person who: (1) owns or operates a motor vehicle service station, filling station, garage, or similar retail establishment engaged in the business of selling, repairing, or servicing motor vehicles, where a significant percentage of the gross revenue of the establishment is derived from the fueling, repairing, or servicing of motor vehicles; and (2) accepts for collection, accumulation, and delivery to an oil recycling facility, “Do-It-Yourselfer” (DIY) used oil. “DIY oil” is oil that: (1) has been removed from the engine of a light duty motor vehicle or household appliances by the owner of the vehicle or appliances; and (2) is presented by the owner to such person for collection, accumulation, and delivery to an oil recycling facility.

To be eligible for the exemption, a service station dealer must: (1) manage used oil in accordance with federal used oil management standards or, if stricter, state standards; and (2) not mix used oil with any other hazardous substances. If some or all of the used oil you sent to the [name] Site is exempt, some or all of your liability for site cleanup costs will be eliminated. For more information on the Superfund law, including the Service Station Dealer Exemption and other exemptions that may apply, see EPA’s web site at <http://www.epa.gov/compliance/cleanup/>.

Application/Information Request

Please complete the enclosed application/information request and return it to EPA within thirty (30) days of your receipt of this letter. If you need additional time to complete the application/information request or if you do not intend to return the completed application/information request, please notify the EPA contact listed below. Please note that if you are eligible for the exemption but fail to submit the application/information request in a timely manner, you may incur administrative and legal costs associated with EPA’s cleanup process. This would occur because EPA would not have sufficient information to remove you from the general pool of “potentially responsible parties.” Being part of the “general pool” means EPA may request that you enter into settlement negotiations to resolve your share of the cleanup costs. It also means you may be contacted by other potentially responsible parties at the site regarding your liability for the cleanup.

After EPA receives your completed application/information request, EPA will determine if any additional information from you is necessary. Once EPA has received all the information needed regarding whether the exemption applies to your situation, EPA will evaluate the information you have provided and will contact you as soon as possible regarding its conclusion as to whether to treat you as a "potentially responsible party."

If you have any questions regarding this letter or the enclosed application, please contact your national trade association (see attached list) and/or [EPA contact's name, phone number, e-mail address]. Thank you for your cooperation in this matter.

Sincerely,

Enclosures: Service Station Dealer Exemption Application/Information Request
Attachment 1: Information Demonstrating Connection to the Site

**SERVICE STATION DEALER EXEMPTION
APPLICATION/INFORMATION REQUEST**

Please fill out this application/information request as completely and accurately as possible. EPA requests that applicants make a good faith search for any records, receipts, cancelled checks, invoices and other documents that will help you provide accurate and complete responses. In addition, please consult with other people who may have information. At the end of this application/information request, you will be asked to certify that your answers are correct and accurate to the best of your knowledge.

Please send your completed application to XXXXXX, XXXXXX, XXXXXX within 30 days after receipt. If you need more time to complete the application/information request, please contact [insert EPA contact's name and phone number] to request additional time. Note that EPA may contact you to request additional information in support of the application/information request.

Please Note: Attachment 1 contains the information EPA has regarding used oil sent from your business to the [name] Site. Some of those shipments may be prior to March 8, 1993, and some may be after that date. The questions below pertain *only* to the time periods on or after March 8, 1993, during which your business sent used oil to the [name] Site.

1. Identity of Party

Your Name/Title _____
Business Name _____
Business Address _____
Telephone _____

2. Type of Business

- A. Do you or did you own or operate a motor vehicle service station, filling station, garage, or similar retail establishment? yes no
- B. Does or did your business sell, repair, or service motor vehicles? yes no
- C. Is or was a significant percentage of the gross revenue of the establishment derived from the fueling, repairing, or servicing of motor vehicles? yes no

If "yes," provide your NAICS and/or SIC code: _____
(For assistance in determining the appropriate code, please see the Small Business Administration's web site at https://eweb1.sba.gov/naics/dsp_naicssearch2.cfm)

3. Acceptance of Do-It-Yourselfer Used Oil

- A. Did you always accept or were you always willing to accept Do-It-Yourselfer (DIY) used oil? yes no

- B. If “yes,” please describe any methods you may have used to notify the public that you accept(ed) or were willing to accept DIY used oil (e.g., sign at premises, newspaper, pamphlets) and, if available, provide a copy or picture: _____

4. Used Oil Management and Transportation

- A. Did you store used oil *only* in containers, aboveground tanks, and/or underground tanks? yes no

- B. If “yes,” were your container(s), tank(s) and underground storage tank fill pipe(s) labeled or clearly marked with the words “Used Oil”?
 yes no

- C. If “yes,” did your container(s) or tank(s) have leaks, severe rust, or had apparent structural defects or deterioration? yes no

If “yes,” describe the steps taken to stop any leaks, address any releases, and conduct any repairs. If necessary, attach additional information on a separate piece of paper: _____

- D. Did you or anyone else place hazardous substances into container(s) or tank(s) used to store used oil? (Examples of hazardous substances include automobile coolant/antifreeze, solvents, degreasers, cleaners, polychlorinated biphenyl (PCB) oils, waste lead-acid or mercury-containing batteries or their components, asbestos-containing brake shoes or pads, mercury switches, paint or paint thinner)? yes no

- E. Did you use transporters with EPA identification numbers to transport used oil to the [name] Site? yes no

If “yes,” provide the EPA identification numbers: _____

If “no,” did you transport used oil to the [name] Site in your own vehicle or an employee’s vehicle in quantities of 55 gallons or less per shipment? yes no

5. Sources of Information

- A. Please identify the sources of information you used to fill out this application/information request (*mark all that apply*):
 - Personal knowledge
 - Written records
 - Information from other persons
 - Other _____ (specify)

- B. If your responses are based on information from other persons, please give the names, addresses, and telephone numbers of the other persons, their relationship to your business (e.g., former employee, transporter) and a description of the information that they were able to provide: _____

- C. While the Federal Used Oil Management Standards (40 Part 279) do not contain record retention requirements for generators, EPA requests that you attach copies of any records or other documents you used to fill out this application/information request. These documents will enable EPA to consider your application more expeditiously. Documents may include items such as receipts, cancelled checks, invoices, log books, bills of lading, manifests, proofs of delivery, waste tickets, waste analyses, contracts, correspondence or any other information.

- D. If you have information indicating that there were any shipments of used oil from your business to the [name] Site after March 8, 1993, that are not reflected on Attachment 1, please provide such information, including the dates and volumes of such shipments, if known: _____

- E. If you believe any of the information in Attachment 1 to be factually incorrect, please describe why: _____

CERTIFICATION OF RESPONSES

I, _____ (insert your name), certify that I am authorized to complete this application/information request on behalf of _____ (insert name of party for whom you are responding, or if you are responding on behalf of

yourself as an individual, insert "self"), and that I am authorized to make the representations set forth above. I further certify that I have made a good faith search for all records, documents, or other information in the possession or control of _____
(insert name of party for whom you are responding, or if you are responding on behalf of yourself as an individual, insert "self") to obtain all information that relates to this application/information request, including having discussions with persons who have or may have knowledge about these matters. I swear, under penalty of perjury, that the information submitted in response to this application/information request is true, accurate, and complete to the best of my knowledge, information, and belief.

Signature: _____
Print Name: _____
Address: _____
Telephone: _____

[NOTE ON USE OF MODEL DOCUMENT: This model document and any internal procedures adopted for its implementation and use are intended as guidance for employees of the U.S. Environmental Protection Agency. They are not rules and do not create legal obligations. The extent to which EPA uses them in a particular case will depend on the facts of the case.]