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# Used Oil/RCRA Guidance: U.S. Environmental Protection Agency Addresses Clean Harbors Environmental Services, Inc. Question Regarding Vegetable/Animal Oil-Based Lubricants

## Arkansas Environmental, Energy, and Water Law Blog

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The United States Environmental Protection Agency ("EPA") addressed in a December 4, 2015 letter a question regarding the Used Oil Management Standards ("Used Oil Standards") 40 C.F.R. part 279.

Clean Harbors Environmental Services, Inc. in an April 20, 2015 letter requested clarification as to whether vegetable or animal oil-based lubricants are regulated under the Used Oil Standards once they are "used".

Concern had been expressed that EPA may have altered its definition of used oil to include animal and plant-based oils. An additional concern was whether proposed changes to California's definition of used oil to include "synthetic oil from any source" might disrupt recycling programs because of the increased amounts of bio-based oils in used oil feedstocks. A possible impediment to re-refining the operations was identified.

The relevant regulatory definition of used oil is:

Used oil means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

49 C.F.R. 279.1

EPA states in the December 4<sup>th</sup> letter that its position regarding the definition of used oil and the status of plant or animal derived oil (as expressed in its 1997 policy) is unchanged.

The federal agency's used oil definition is stated to be based on three criteria:

- Origin
- Use
- Contamination

EPA's December 4<sup>th</sup> letter notes:

Our 1997 policy regarding animal and vegetable oils applies the 'origin' criterion of the definition of used oil, and states that "since animal and vegetable oil are not synthetic or derived from crude oil, they are

not regulated as used oil under the used oil management standards”(see RCRA Online No. 14018, February 7, 1997 and RCRA Online No. 14090, April 1997). In practical terms, the policy means that plant or animal oils used as lubricants would not meet the definition of used oil under part 279. Thus, these used lubricants would be spent materials subject to regulation as a solid waste.

EPA acknowledges that its 1997 policy did not address situations where oils from plant or animal sources would be formulated together with conventional crude or synthetic oils prior to use. The agency reiterates its position as stated in a 2014 letter that:

... such formulations, once used, would meet the definition of used oil under part 279 and could be managed under RCRA’s used oil management standards. This is because these formulations contain oils that are synthetic or derived from crude oil, thus satisfying the origin part of the definition of used oil in 40 CFR 279.1.

The letter also notes:

... Additionally, used oil collection system operators could encounter mixtures of used oils derived solely from plant or animal sources with used conventional oils. These mixtures may also still meet the definition of used oil, just as mixtures of used oils with other materials may still meet the definition of used oil. As we stated in our 2014 letter to Ms. Adams, such mixing must meet the applicable mixing criteria described in 40 CFR 279.10.

[Click here to download a copy of the letter.](#)