



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

OFFICE OF  
RESOURCE CONSERVATION  
AND RECOVERY

DEC 04 2015

Mr. Phillip G. Retallick  
Senior Vice President, Compliance and Regulatory Affairs  
Clean Harbors Environmental Services, Inc.  
400 Arbor Lake Drive, Suite B-900  
Columbia, South Carolina 29223

Dear Mr. Retallick:

Thank you for your letter of April 20, 2015, seeking clarification of a June 16, 2014, letter we wrote to Linda Adams, Clean Tech Advocates, regarding whether vegetable or animal oil-based lubricants, once used, are regulated under the 40 CFR part 279 Used Oil Management Standards. Specifically, you express concern that our response to Ms. Adams suggests we may have altered our definition of used oil to include animal and plant-based oils. You also express concern regarding proposed changes California's definition of used oil to include synthetic oil "from any source" (Assembly Bill 628), and that such changes might disrupt recycling programs because of the increased amounts of bio-based oils in used oil feedstocks, which may be problematic for your re-refining operations.

The definition of used oil, according to 40 CFR 279.1, is as follows:

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.

Our position regarding the definition of used oil and the status of plant or animal derived oils, as expressed in our 1997 policy, remains unchanged. Our used oil definition is based on three criteria: origin, use, and contamination. 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 oils 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.

Our 1997 policy did not envision, and thus did not address, those situations where oils from plant or animal sources would be formulated together with conventional crude or synthetic oils prior to use. As we stated in our 2014 letter to Ms. Adams, we believe 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.

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.

Please be aware that under Section 3006 of the Resource Conservation and Recovery Act (RCRA), individual states can be authorized to administer and enforce their own hazardous waste programs in lieu of the federal program. Under Section 3009 of RCRA, states retain authority to promulgate regulatory requirements that are more stringent or broader in scope than the federal regulatory requirements. You should consult with the appropriate regulatory authority (i.e., the authorized state agency or EPA), if you have questions regarding regulations pertaining to a specific state.

I appreciate your interest in clarifying how the used oil regulations apply to bio-based lubricants. If you have further questions, please contact Jeff Gaines of my staff at (703) 308-8655 or [gaines.jeff@epa.gov](mailto:gaines.jeff@epa.gov).

Sincerely,

A handwritten signature in black ink that reads "Barnes Johnson". The signature is written in a cursive, flowing style.

Barnes Johnson, Director  
Office of Resource Conservation and Recovery