



Environmental Fact Sheet

Comments Requested on New Options for Listing and Managing Used Oil

This notice discusses options regarding listing used oil as a waste, management standards for used oil handlers, and possible future incentives for encouraging used oil recycling. Through this notice, the Agency is trying to determine the most practical methods for regulating and managing used oil to protect human health and the environment while encouraging and promoting recycling of this valuable resource.

Background

In November 1985, the Environmental Protection Agency (EPA) proposed to list all used oils as hazardous waste. At that time, the Agency also proposed management standards to control the collection, transportation, and recycling of all used oils. Due to the potential stigma that might be attached to a hazardous waste, in 1986 EPA issued a decision not to list as hazardous used oil that is being recycled. The Agency thought that listing could discourage recycling, resulting in increased incidences of improper disposal of used oil. This decision was legally challenged in 1988, and the court ruled that EPA must make a listing determination for used oil based on the statutory criteria for listing, which relate to whether a material is toxic.

Since the 1988 decision, EPA has been collecting and analyzing new data on the composition of various types of used oils, the management of used oils, and the potential impact of used oils on human health and the environment when mismanaged. EPA believes it is important to consider the effects of other regulations issued since 1988, as well. The Toxicity Characteristic (TC) rule, issued in 1990, subjects many more wastes to federal hazardous regulations, including certain categories of used oil being disposed. Subsequent to 1988, EPA also has issued regulations on hazardous waste storage tanks and underground storage tanks. The Oil Pollution Act was passed in 1990, and the more specific Spill Prevention Control Countermeasure requirements are being developed. These laws and regulations all affect used oil management and disposal.

Action

This notice expands on the Agency's 1985 proposal, considers options regarding listing used oil, and reviews possible alternate management standards for all used oils. The notice does not address used oil generated by do-it-yourself oil changers. However, some incentives that are conducive to the collection and recycling of this oil are discussed.

Listing Options

Option One: This option, which was originally proposed in 1985, would list all used oil as hazardous. This option would include used oils that are contaminated after use and oil that may not be hazardous at the point of generation or contaminated after use.

Option Two: This second option would list only those categories of used oil that are typically and frequently hazardous based on their toxicity at the point of generation, rather than after collection and likely contamination. Oils that may be listed under this option are those from gasoline-powered engines. These include used oils from automotive crankcases, marine engines, and piston-engine airplanes.

Option Three: This option would be to not list any used oils as hazardous and rely on management standards to address the types of mismanagement that have historically occurred with used oil, such as contamination with hazardous waste due to mixing, road oiling, releases, and spills associated with storage and transportation.

If this approach is adopted, used oil handlers would still be required to test oil destined for disposal for hazardous characteristics. Characteristic hazardous waste must be disposed according to hazardous waste management regulations; characteristic hazardous used oil that is recycled is subject to the proposed management standards.

If used oil is listed as hazardous, certain exemptions and exclusions may apply to: nonhazardous wastewaters mixed with small amounts of used oil; industrial wipers (such as shop towels and rags); sorptive minerals (such as absorbent clay used to clean up spills) mixed with used oil; used oil filters and parts that are recycled;

used shock absorbers (including the used oil) that are recycled; and distillation bottoms recycled for the manufacture of asphalt.

A number of other materials may be mixed with used oil in small quantities. To determine whether or not these mixtures are hazardous, the Agency is proposing a qualitative test. If one drop of listed used oil can flow from the mixture, the waste would be considered hazardous. If adopted, this "one-drop philosophy" will allow used oil handlers to drain all free-flowing used oil from mixtures, and dispose of the waste in municipal solid waste facilities.

Options for Management Standards

EPA believes that used oils pose hazards to human health and the environment, and therefore need to be managed safely. The mismanagement of used oil can contaminate air, water, and soil. Contamination primarily occurs from improper storage in containers and tanks, disposal in unlined impoundments or landfills, burning of used oil mixed with hazardous waste, improper storage practices at used oil handling sites and associated facilities, and road oiling for dust suppression. The Agency proposed a comprehensive set of management standards in 1985 for generators, transporters, and recycling facilities that handle hazardous used oil. This notice discusses other management options for used oil.

Under the phased-in approach, the Agency is presenting options for comment on the level of controls needed for used oil. The options are to:

- Provide management standards for **all** used oils to some extent.
- Provide one set of management requirements for all used oil handlers.
- Provide basic management standards immediately that balance the interests of protective regulation and the need to promote recycling. (At a later date, the Agency may provide additional standards, if necessary.)

To reduce the risks posed by mismanagement of used oil and to impose the least burdensome requirements on the used oil recycling industry, EPA is considering implementing the proposed management standards in two phases. Phase I requirements would be fairly simple, "good housekeeping" practices that address the improper storage and disposal of used oil by generators, transporters, recyclers, and disposal facilities. "Good housekeeping" includes such practices as inspecting for leaks, releases, or spills; maintaining storage tanks and containers; and tracking recycled used oil from generators to recyclers. Phase I also proposes to ban road oiling and establishes guidelines that presume all

used oil being disposed is destined for recycling. In Phase II, the Agency may consider additional management standards and controls for used oil, if needed.

EPA proposes that the management standards include a recycling presumption. Under this presumption, all used oil handlers would be subject to the same management standards unless their used oil is not recyclable. By eliminating the distinction between small and large quantity generators all used oils would be collected and recycled.

When they comply with the used oil management standards, certain generators—including service station dealers—would be exempt from Comprehensive, Environmental Response, and Liability Act (CERCLA) requirements for off-site releases of used oil.

The Agency recognizes that certain nonhazardous used oils cannot be recycled and will require disposal. To ensure that disposal occurs in an environmentally safe manner, EPA is considering four approaches to control the disposal of nonrecyclable, nonhazardous used oil:

- Allow hazardous, nonrecyclable used oil disposal in hazardous waste landfills.
- Allow disposal of nonhazardous used oil in municipal solid waste facilities after a demonstration that the used oil is not hazardous **and** not recyclable.
- Allow limited disposal of nonhazardous used oil if the disposal facility is in compliance with certain design and operating criteria that will be developed by EPA at a later date.
- Ban land disposal of nonhazardous used oil.

In addition to used oil management standards, this notice discusses possible future approaches for promoting the collection and recycling of used oil generated by people who change their own oil.

Contact

For additional information or to order a copy of the *Federal Register* notice, contact the RCRA Hotline, Monday-Friday, 8:30 a.m. to 7:30 p.m. EST. The national, toll-free number is (800) 424-9346; TDD (800) 553-7672 (hearing impaired); in Washington, D.C., the number is (703) 920-9810, TDD (703) 486-3323.

Copies of documents applicable to this rulemaking may be obtained by writing: RCRA Information Center (RIC), U.S. Environmental Protection Agency, Office of Solid Waste (OS-305), 401 M Street SW, Washington, D.C. 20460.