

STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON TRANSPORTATION AND COMMERCE
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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
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Mr. Chairman, I am Gary Dietrich, Associate Deputy Assistant Administrator for Solid Waste of the U.S. Environmental Protection Agency. I thank you for the opportunity to present EPA's views on S. 2412, a bill to amend the Resource Conservation and Recovery Act to further encourage the use of recycled oil. This hearing is timely because EPA is currently in the process of considering appropriate regulation of waste oil as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act. The provisions of this bill should be considered in that overall context.

EPA supports the recovery and reuse of used oil. We believe that the discarding and disposal of used oil should be discouraged. Waste oil represents a valuable resource because, with appropriate treatment, it can be recycled as a lubricating oil. It also can be burned as a fuel. In either case, two important objectives are served:

- a) The use of virgin petroleum products is replaced by the amount of oil recycled.
- b) Potential environmental hazards from improper disposal of used oil are reduced or eliminated.

In my statement, I will focuss on the scope and nature of the waste oil problem, the options EPA is considering for dealing with that problem, and the specific provisions of this bill to encourage recycling.

Used Oil Quantities and Collection

EPA estimates that there are 1.4 billion gallons of used and waste oil generated annually. About half of this is used automobile crankcase oil, and the other half is used industrial oils. Of this total, we estimate that 700 million gallons are burned as fuel, 100 million gallons are re-refined or reclaimed, 200 million gallons are used for road oiling or similar purposes and 400 million gallons are disposed of either indiscriminantly or with garbage and trash.

The collection of used automotive and some used industrial oil for disposal, use or recycle is carried out by an estimated 5,000 small collectors. We believe that much of the used industrial oil is burned as a fuel directly by the generator on-site with or without reprocessing.

Environmental Problem

Used oil presents an environmental problem because it is usually highly contaminated. Also the oil, itself, can pollute the environment, particularly when discharged into surface waters. A variety of contaminants are added during its use. Automotive crankcase oil is contaminated with lead from gasoline. Industrial oils are contaminated with a variety of materials, but we have very incomplete data on the nature and degree of this contamination.

A large number and variety of chemical additives are added to oils to improve their performance and extend their useful life. Although they serve beneficial purposes during use, they constitute contaminants in used oil. We have an incomplete inventory of these additives and their importance as contaminants in used oil.

Perhaps the worst feature of used oil is the fact that it is typically mixed when it is collected, transported and stored prior to being re-used, recycled or disposed. In this mixing process, a variety of toxic solvents, PCB's and other toxic materials are frequently mixed into used oil. The results are heterogeneous mixtures that can and frequently do contain some very hazardous materials. Indeed, the worst cases of environmental damages associated with used oil resulted from indiscriminant mixing: dioxin-contaminated used oil employed as a dust suppressant on a horse arena in Missouri, killing many horses and threatening human life; PCB-contaminated used oil that has killed cattle; and road oiling with used oil in Texas which contained a highly toxic solvent. It is largely the propensity for used oil to be a carrier for a variety of highly toxic solvents, PCB's, and other materials that causes EPA to be concerned about used oil and to presume that used oil is a hazardous waste. We are also concerned about the lead in used oil, and here, also, the mixing of used oil results in all used oil being suspected of containing lead. If automotive crankcase oil were segregated from other used oil, our concern about lead contamination of used oil could be focused on

crankcase oil and, further, crankcase oil exclusive of that derived from diesel-engine fleets. Although we do not have a great deal of data on the other contaminants of used oil--particularly those picked up in industrial oil and those derived from additives--we believe that the mixing of used oil has the effect of spreading these contaminants throughout most used oil.

All uses, recycling and disposal of used oil have the potential of polluting the environment, but the nature and degree of this pollution varies. The disposal of used oil can result in the leaching or draining of the oil or its contaminants into surface and ground waters. Similar potential exists with respect to used oil that is used as a road oil or in other applications on the land. The burning of used oil can result in air emissions of lead, other metals and incompletely burned organic contaminants. The reclaiming, re-refining and reprocessing of used oil can generate highly contaminated sludges, residues and wastewater and air discharges. The storage and transportation of used oil can be attended by leakage and spills into the environment. They can also be attended by indiscriminant dumping into the environment. Although the environmental impacts from individual use, recycling and disposal operations can vary in degree and sometimes can be very substantial, the aggregate impact from the ultimate disposition of 1.4 billion gallons of used oil each year probably spell our greatest concerns about used oil.

Environmental Control of Used Oil

EPA believes it has jurisdiction under Subtitle C of the Resource Conservation and Recovery Act to regulate used oil as a hazardous waste and to regulate the disposal as well as the re-use and recycling of this material. Indeed, in our proposed regulations published December 18, 1978, we listed several used oils as hazardous waste and proposed to regulate the disposal, use-on-the-land and burning-as-a-fuel of these oils. We did not propose to regulate the reclaiming, re-refining or other recycling of these oils, but we indicated that we might, in the future, regulate these uses. The Agency received a very large number of comments on these proposals. We had hoped to complete our consideration of these comments and our further analysis of the used oil problem in order to include regulation of used oil in the final and interim final Subtitle C hazardous waste regulations that are being announced today. The used oil problem is very complex, however, and we simply have not been able to complete our work on this matter. We are, however, planning to list and regulate used oil as a hazardous waste in an amendment to our hazardous waste regulations sometime in the fall of this year.

As I have mentioned, the used oil problem is complex and we believe it merits a special, tailored set of hazardous waste management regulations. We do not believe it should be managed under the same requirements as most other hazardous wastes. We feel this way for several reasons. First, used oil is a resource. It can be used and recycled. Disposal should be discouraged.

In order to promote the use and recycling of used oil, while, at the same time, controlling its potential to pollute the environment, special regulations are required. Secondly, because of the large number of generators of waste oil--366,000--most of whom are small service stations, garages, and other businesses, because of the number of transporters--5,000--and because of the unknown but believed large numbers of users of used oil, we do not feel that the highly sophisticated and complex manifest tracking system of the Subtitle C program is well-suited and wholly necessary to deal with this problem. Finally, we believe that the environmental impacts associated with the use and recycling of used oil are different and peculiar to this type of material. The requirements of the hazardous waste management regulations are designed primarily to deal with the long-term containment and destruction or treatment of wastes and are not always optimal to deal with use and recycling.

Against this backdrop of general findings, we have carefully reviewed the used oil problem and have come to some tentative findings with respect to environmental regulation. These are:

- We believe that reclaiming and re-refining of used oil should be encouraged but should be regulated. It is important to assure that used oil is delivered to and safely stored at recycling facilities, and it is important to control the waste discharges from these facilities.

- We believe that the burning of waste oil as a fuel should be encouraged and can be accomplished in an environmentally safe way. But this use also must be regulated to insure environmental protection. Some types of burning should be prohibited or restricted while other types should be allowed but controlled.
- We believe that the use of used oil for road oiling, dust suppression, pesticide carriers and other land applications should be virtually prohibited.
- We believe that disposal of used oil should be discouraged and, where practiced, should be regulated as any other hazardous waste.
- Finally, we believe that the collection, transportation and storage of used oil should be regulated but in a manner that does not impose a large amount of reporting and recordkeeping on generators.

We are working with these concepts in formulating a final regulation to be promulgated this fall under the Subtitle C hazardous waste management program.

Comments on S. 2412

EPA agrees with the basic intent of the bill but has a number of concerns with its specific provision.

First, we are concerned that the objectives of the bill do not reflect the beneficial use of used oil as a fuel. We have information that indicates that burning of waste oil as a fuel is and can be a competitive and appropriate use of used oil, as

compared to reclaiming and re-refining, from the standpoint of economics as well as conservation of resources. Section 9001 of the bill fails to recognize this. As previously mentioned, use of used oil as a fuel can have environmental impacts, as can reclaiming and re-refining, but we believe these impacts can be adequately controlled. We recognize that re-refining of used oil for re-use as a lubricant produces a higher level of conservation because it produces a material that, after use, can be recycled once again and perhaps several additional times. Thus, re-refining is to be preferred. However, we also recognize that many generators will prefer to burn their used oil, as a fuel in on-site boilers. If air emissions are controlled, this use should not be discouraged.

Secondly, we believe that most of the provisions of the bill are already provided in the Resource Conservation and Recovery Act and therefore can be implemented under the current authority. Certainly, those provisions of the bill related to regulation of used oil for purposes of protecting human health and the environment--principally Sections 9003 (a) (2) (B) and 9005 (b) (5)--are already covered by existing authority. Also, we believe that many of the provisions of the bill for encouraging the use and recycling of used oil can be accomplished under RCRA. Section 6002 of RCRA requires Federal agencies to produce products containing the highest practicable percentage of recovered materials, and it requires EPA to issue guidelines to encourage and assist

agencies in carrying out that mandate. EPA has the authority under Section 6002 to issue guidelines for use of re-refined oil. Because of the Section 6002 mandate, the Department of Defense has already initiated a program to use increased amounts of re-refined oil. The existing authority of Section 6002 seems to be ideally suited to achieve the objective of §9003 (a) (2) (B) of this bill.

Thirdly, we are not persuaded that a new State grant program is necessary to adequately deal with the used oil problem. We do support the concept of aggressive State programs, both to implement environmental protection requirements and to foster the beneficial use and recycling of used oil. We believe that the first of these objectives can and will be served under the current authorities of RCRA which provide for authorizing the States to implement the hazardous waste management program under Subtitle C and further provides for Federal grant support to the States to assist them in this effort. With respect to the second objective, we believe that carefully designed regulations and guidelines under current RCRA authorities can suffice to promote the beneficial use and recycling of used oil. Thus by regulation, we believe that we can set the framework that favors use and recycling and permits the private sector to accomplish this objective without Federal assistance through State grants.

We do believe that Section 9003 (b) (1) of the bill, which requires the labeling of virgin oil to encourage users to conserve used oil, has considerable merit and would support enactment of this provision. We would point out that EPA already has a very

similar mandate under the Energy Policy and Conservation Act, P.L. 94-163. Section 383 (d) (2) of that Act requires EPA to prescribe labeling standards applicable to containers of new, used, and recycled oil relating to proper disposal after use. However, the timing of this action is predicated on completion of certain still pending action by the National Bureau of Standards.

We further believe that Section 9003 (a) (2) (A) of the bill, which requires EPA to assure the fitness of recycled or re-refined oil for intended uses, has considerable merit. We note that Section 383(c) and (d) of the Energy Policy and Conservation Act has a similar provision which requires the National Bureau of Standards to develop test procedures for determining the "substantial equivalency" of re-refined and reprocessed used oil with new oil and further requires the Federal Trade Commission to promulgate those test procedures, together with labeling standards, to affect notification to consumers about the equivalency of the reprocessed or re-refined products. We understand that implementing a "substantial equivalency standard" presents some very difficult technical and judgmental problems and believe that a fitness test is preferable and more readily implemented. We hasten to point out that Section 9003 (a) (2) (A) would add a new activity to EPA's many programs--an activity with which we have no experience. If it is the wisdom of the Congress that EPA perform this function, we undoubtedly would have to seek help from the National Bureau of Standards and would have to gear up. However, EPA does not seek out this activity. Based on

past experience, we do not believe we could meet the statutory deadline of six months.

Finally, we do not feel qualified to comment on Section 9004 of the bill and will defer to others to comment on its merits.

In summary, instead of supporting this legislation at this time, we would like to continue to work with this Committee in implementing the current authorities of RCRA to deal with the wise regulation of used oil from the standpoint of both environmental protection and resource conservation. As I have already mentioned, we are moving to use the current authorities of RCRA to deal with this matter.

Again, I appreciate the opportunity to provide this statement and I shall be happy to answer any questions you might have.

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