



State of Ohio Environmental Protection Agency

STREET ADDRESS:

MAILING ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

P.O. Box 1049
Columbus, Ohio 43216-1049

January 24, 2007

Re: Proving Used Oil Is Not A Hazardous Waste

Dear Mr. Puskar:

This is in response to your e-mail that I received on January 18, 2007. Thank you for contacting Ohio EPA with your questions as I appreciate the opportunity to provide you with regulatory assistance.

You asked if it is recommended that used oil generators such as car dealers, auto repair shops, quick lubes, etc., have a baseline analysis in their records, as well as further analysis kept by the used oil marketer or transporter who is shipping such oil to a recognized burner, showing their used oil is non-hazardous. Before I address the crux of your question, I feel that it may be beneficial to clear up some common misunderstandings in regards to mixtures of used oil and hazardous waste, the rebuttable presumption and used oil specification.

Used oil that becomes contaminated through its use can exhibit one or more characteristics of a hazardous waste and yet meet the definition of a used oil. Businesses that generate used oil are not required to demonstrate that their used oil is "non-hazardous". Rather, if their used oil has more than 1,000 parts per million (ppm) of total halogen content, Ohio EPA presumes the mixture to be a hazardous waste unless they can successfully rebut the presumption. It is also important to understand that the 1,000 ppm total halogen content is not a catch-all-threshold in determining if used oil has been mixed with hazardous waste. 1,000 ppm is simply an indicator that halogenated hazardous constituents has been added to the used oil. U.S. EPA has suggested that used oil even containing over 100 ppm individual halogenated hazardous constituents could be considered to have been mixed with hazardous waste. For example, 100 ppm of hazardous constituents in a 250 gallon tank of used oil would not necessarily indicate that the generator had intentionally mixed his chlorinated solvent with his used oil in order to avoid managing the chlorinated solvent as hazardous waste. On the other hand if the 100 ppm is in a 500,000 gallon tank of used oil it represents a much larger volume than the previous example. For more information on significant concentrations, see [U.S. EPA's on-line guidance](#).

Business generating \leq 220 pounds of hazardous waste (approximately 1/2 of a 55-gallon drum) in a calendar month can mix their hazardous waste with their used oil and manage the resulting mixture as used oil (for more information on hazardous waste and used oil mixtures, see our [Winter 2006 Notifier Newsletter](#)). This does not, however, relieve their requirement to successfully rebut the presumption that their used oil is a hazardous waste. To successfully rebut the presumption, such a business must be able to demonstrate that they generate no more than 220 pounds of hazardous waste each calendar month of the year.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Laura H. Powell, Acting Director

And lastly, there is no connection between the used oil specification and the rebuttable presumption. The used oil specification concentration limits determine the devices in which the used oil can be burned. If the used oil you manage will be refined to make lubricating oils, the used oil specifications do not apply. The rebuttable presumption places the burden of proof on handlers that the used oil they manage has not been mixed with halogenated hazardous waste. The rebuttable presumption applies to all used oil regardless of whether it is being used as a fuel or is re-refined to make a lubricant.

To specifically answer your question, used oil generators are not required by rule to have analytical data to show their used oil does not meet the definition of a hazardous waste. However, used oil generators are subject to the rebuttable presumption. **Simply signing a piece of paper certifying such used oil is not a hazardous waste does not rebut the presumption or release the used oil generator, transporter, marketer, or burner from any liability.** Used oil generators, transporters, marketers and burners that are managing a hazardous waste as a used oil are in violation of Ohio Revised Code § [3734.02](#) and are each subject to a maximum fine of \$10,000 per day per violation.

Since your question involves used oil that will be burned for energy recovery, it is also important to state that used oil is presumed to be off-specification until proven otherwise. Whoever first makes the claim that the used oil fuel meets the specification must obtain analysis or other information to support the claim. While testing is not specifically required to demonstrate compliance with the specification, Ohio EPA expects that testing will be used to demonstrate compliance. The “other information” could include personal, special knowledge of the source and composition of the used oil or certification from a generator claiming the oil meets the specification. However, if a person who claims used oil fuel meets the specification based on “other information” and the determination is found to be erroneous (i.e., if testing reveals that the oil fails the specification), they and any subsequent handlers of the used oil (transporters, burners, etc.) are in violation of the regulations.

I hope this addresses your questions and concerns. If you have any further questions or concerns pertaining to Ohio’s used oil or hazardous waste regulations, please do not hesitate to contact me at 614-644-2972 or via [e-mail](#).

Sincerely,



Dan Sowry
Regulatory Services Unit
Division of Hazardous Waste Management

>>> "Michael J Puskar" <mike@nofriction.com> 1/18/2007 2:34 pm >>>

Dan:

Thank you for taking my call today. Per that conversation, I am writing for a response from you regarding Generators of used oil and the importance of having a baseline sample, a footprint, which typifies their day-to-day operations.

Is it recommended that Generators (Car Dealers, Auto Repair Shops, Quick Lubes, etc.) have a baseline analysis in their records, as well further analysis kept by the Marketer/Transporter who is shipping said oil to a recognized burner, showing their used oil is in fact non-hazardous (contains under maximum limits of listed contaminants)?

As we discussed, those Collectors who do not perform analysis create an unfair advantage by attempting to put any potential liability on the Generator by relying solely on Generator Knowledge.

Again, Dan, thanks for your time and I look forward to your response.

Michael J Puskar
cell: 330-813-0315
1-800-RICE (7423)
mike@nofriction.com