

August 3, 2010

Air and Radiation Docket  
US Environmental Protection Agency  
Mail Code: 6102T  
1200 Pennsylvania Ave., NW.  
Washington, DC, 20460



*Transmitted via email: rcra-docket@epa.gov*

Attention: *Docket ID No. EPA-HQ-RCRA-2008-0329*

Dear Sir or Madam:

The National Steering Committee for the national network of state Small Business Ombudsman and Small Business Environmental Assistance Programs thanks you for the opportunity to comment on the proposed rule on *Identification of Non-hazardous Secondary Materials That Are Solid Waste*, which was published in the *Federal Register* on June 4, 2010 in Docket ID No. *EPA-HQ-RCRA-2008-0329*. The state Small Business Ombudsman and Small Business Environmental Assistance Programs (SBO/SBEAP) were created under s. 507 of the Clean Air Act Amendments of 1990. For over 15 years, the SBO/SBEAPs have provided extensive, hands-on assistance to small businesses to help them understand environmental regulations. Therefore, we offer comments and experience relevant to the implementation of EPA standards.

The SBO/SBEAPs are interested in helping to investigate the business impact for rule changes that affect small businesses across the nation. Our goal is to help EPA issue regulations that are clear and easy for small businesses to comply with and are also rules that the SBO/SBEAPs and states can implement with minimal (and in many states, dwindling) resources. The SBO/SBEAPs, through their Technical-Air and Technical-Waste Subcommittees, stand ready to work with EPA to develop rules that small businesses can comply with and implementation tools and templates that will benefit all affected small businesses. Comments from the National Steering Committee for SBO/SBEAPs and its subcommittees reflect a wide range of experience with the efforts of small business to comply with such standards.

#### *Comments*

##### *Defining Off-Specification Used Oil as Solid Waste*

**Recommendation:** We recommend you do not change the regulations that currently allowing use of off-specification used oil, to avoid potential impacts on land or water.

Off-specification used oil that is collected and used in a small used oil burner (meeting 40 CFR 279.23) should not be considered solid waste. It is handled as a valuable resource and is under control of the generator. Emissions from used oil (presumed to be off-specification) are higher than virgin oil for some pollutants, but because 40 CFR 279.23 limits the size of the heater it should have a minimal affect on the ambient air quality.

Eliminating the capability of facilities to burn oil that is *presumed* off-specification oil will require owners of the small space heaters to test their oil before burning or stop using the units. It will be cost prohibitive to test the oil before burning, and therefore the facilities will

no longer use the space heaters. A legitimate source for used oil will no longer be available because these small used oil space heaters will be considered incinerators.

There are some states where the shops can collect large quantities of used oil to save for winter fueling needs and test them one drum at a time. This does not work in all states. Shops in urban areas will not have space to store the used oil and need to burn it in small batches, as they get it. Testing on a per batch basis will be cost prohibitive for a small business, with tests running around \$175.

The rule change will result in facilities no longer having an incentive to accept do-it-yourself (DIY) oil. Increased costs for small businesses that previously had a free source of fuel and eliminate a simple, free disposal option for homeowners will serve as a deterrent to the responsible re-use of used oil from DIY home mechanics. Without convenient places to accept used oil drop-off, more illegal dumping of used oil is likely to occur and/or unnecessary disposal in the local sanitary landfill - definitely the opposite outcome of proper waste management.

We appreciate the opportunity to comment on the proposed revisions to the *Identification of Non-hazardous Secondary Materials That Are Solid Waste*, Docket ID No. *EPA-HQ-RCRA-2008-0329*. Please contact Judy Mirro, Chair of our Technical-Waste Subcommittee, at 802-241-3745, or Barb Johnson, Co-Chair of our Technical-Air Subcommittee, at 785-452-9456 if you need clarification or would like to discuss any of these issues.

Sincerely,



Renee Lesjak Bashel  
Chair, National Steering Committee

cc: Jan King, USEPA OAQPS  
George Faison, USEPA ORCR