



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

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MAY 31 2002

MEMORANDUM

SUBJECT: Use of CERCLA Section 114(c) Service Station Dealers Exemption

FROM: Barry N. Breen, Director
Office of Site Remediation Enforcement

TO: Superfund Division Directors, Regions I-X
Regional Counsel, Regions I-X

This memorandum provides a brief description of the service station dealers exemption (SSDE) in Section 114(c) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (CERCLA), 42 U.S.C. §§ 9601, *et seq.* This memorandum is in interim final form.

The purpose of the SSDE is to encourage service station dealers to accept, for recycling, used motor oil from do-it-yourselfer (DIY) recyclers. DIY recyclers are most often individuals changing the used motor oil in their automobiles and small appliances. Use of the SSDE will depend, to a large extent, on individual circumstances presented in each case where the exemption may apply. This purpose of this memorandum is to encourage you to consider the application of this exemption at sites involving used oil.

Service station dealers may be eligible for an exemption from CERCLA Section 107(a)(3) generator liability and Section 107(a)(4) transporter liability if such recycled oil:

(A) is not mixed with any other hazardous substance, and

(B) is stored, treated, transported, or otherwise managed in compliance with regulations or standards promulgated pursuant to Section 3014 of the Solid Waste Disposal Act . . . and other applicable authorities.

CERCLA Section 101(37)(A) defines “service station dealer” as any person (i) who owns or operates a motor vehicle service station, filling station, or garage, or similar retail establishment engaged in the business of selling, repairing, or servicing motor vehicles, where a significant percentage of the gross revenue of the establishment is derived from the fueling, repairing, or servicing motor vehicles, and (ii) who accepts for collection, accumulation, and delivery to an oil recycling facility, recycled oil that (I) has been removed from the engine of a light duty motor vehicle or appliance, and (II) is presented, by such owner, to such person for collection, accumulation, and delivery to an oil recycling facility.

CERCLA Section 101(37)(B) includes government agencies that establish facilities solely for the purpose of accepting recycled oil in the definition of “service station dealer.”

CERCLA Section 114(c)(2) provides that service station dealers, solely for the purposes of this subsection, may presume that a small quantity of used oil is not mixed with other hazardous substances if it:

(A) has been removed from the engine of a light duty motor vehicle or household appliances by the owner of such vehicle or appliances, and

(B) is presented, by such owner, to the dealer for collection, accumulation, and delivery to an oil recycling facility.

For purposes of this subsection, the terms “used oil” and “recycled oil” have the same meanings as set forth in Sections 1004(36) and 1004(37) of the Solid Waste Disposal Act and regulations promulgated pursuant to that Act.

EPA promulgated regulations pursuant to section 114(c) on September 10, 1992. (57 FR 41612, Sept. 10, 1992). The effective date of the regulations is March 8, 1993.

The regulations allow service station dealers to transport, without an EPA identification number, small amounts of used oil that is generated at the service station dealer’s site and used oil collected from household DIY to a used oil collection center if: (1) The service station dealer transports the used oil in a vehicle owned by the generator or owned by an employee of the generator; (2) The service station dealer transports no more than 55 gallons of used oil at any time; and (3) The service station dealer transports the used oil to a used oil collection center that is registered, licensed, permitted, or recognized by a state/county/municipal government to manage used oil. (40 C.F.R. Section 279.24 (a)).

Pursuant to 40 C.F.R. § 279.30 service station dealers may be considered a used oil collection center. To be considered a used oil collection center such dealer accepts/aggregates and stores used oil collected only from household do-it-yourselfers. Owners and operators of all DIY used oil collection centers must comply with the standards for used oil generators (40 C.F.R. Section 279.20 *et seq.*).

Exemption from liability under this section does not exempt a service station dealer from liability with other environmental statutes, regulations and/or rules. For instance, if a service station dealer has more than 1320 gallons of storage capacity, the dealer would be required to prepare a spill prevention control and countermeasures (SPCC) plan under the Clean Water Act. Further, a spill that threatened a navigable waterway, regardless of the quantity of material stored, could fall under the Oil Pollution Act of 1990 cleanup requirements.

Attached are the regulations implementing section 114(c) of CERCLA. If you have any questions regarding the service station dealers exemption under CERCLA, please contact James McCleary of the Office of Site Remediation Enforcement at (202) 564-6289.

Attachment

cc: Superfund Regional Counsel Branch Chiefs