

Congress of the United States
Washington, DC 20515

Help Ensure the Proper Disposal of Used Oil

Deadline to Co-sign: Wednesday, November 23rd, by close of business

November 17, 2010

Dear Colleague,

We are writing to ask you to join us in a letter to EPA Administrator Jackson on the recently published proposal entitled *Identification of Non-Hazardous Secondary Materials That Are Solid Waste*. As published, this proposal stands to severely interrupt the longstanding relationship between do-it-yourself (DIY) oil changers and the automotive service facilities that currently accept used oil for recycling. EPA has the ability to protect this relationship from unintended harm before putting the new rule into place.

DIY automotive work takes place all across the country. While some Americans maintain their own vehicles as a hobby, others are simply trying to save money in this tough economy. As it stands today, large numbers of automotive service facilities including mechanic shops, auto dealers, quick lubes, tire stores, and others will accept used oil from average customers and use it in space-heaters to warm their small businesses. This standard practice has long been acceptable to EPA, who ensures the safe collection and recycling of used oil through existing regulations. Approximately 780 million gallons of used oil is used as fuel annually in accordance with these regulations.

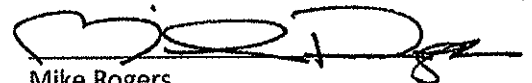
However, by identifying off-specification used oil as a solid waste under the Resource Conservation and Recovery Act, as this proposal would, small businesses that currently recycle used oil will be faced with the burden of either testing the DIY oil they receive or sending it to an industrial incinerator at their own expense. Few small businesses are likely to take this costly step, and will simply stop taking the oil.

We believe this is an unintended consequence of recent rulemaking and would like for EPA to take this under consideration before moving forward. If you would like to join us on this letter or have any questions, please contact Jon Boughtin in Rep. Bill Owens office (5-4611, jon.boughtin@mail.house.gov) or Diane Rinaldo in Rep. Mike Rogers office (5-4872, Diane.Rinaldo@mail.house.gov).

Sincerely,



Bill Owens
Member of Congress



Mike Rogers
Member of Congress

November __, 2010

Honorable Lisa P. Jackson
Administrator, U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We are writing to express our strong concern regarding the proposal entitled *Identification of Non-Hazardous Secondary Materials That Are Solid Waste* which the agency intends to finalize by January 16, 2011. 75 Fed. Reg. 31844 (June 4, 2010). If finalized as proposed, we believe that it could seriously impact the used oil management system that has successfully kept large quantities of used oil out of our waterways since it was first adopted by EPA in 1985.

EPA's used oil management regulations were specifically designed to address the safe handling and combustion of used oil, including off-specification used oil. Approximately 780 million gallons of used oil is used as fuel annually. Of that amount, about 113 million gallons is used for heating purposes by approximately 100,000 small businesses across the country in small, used oil fired space heaters. Some of the used oil that is currently burned in space heaters is oil that is collected from household do-it-yourself oil changers (DIYers) by automotive service facilities as a community service. No problem has been identified with the handling and combustion of used oil under current EPA regulations.

EPA's current regulations recognize the potential for adverse environmental consequences if used oil is overly regulated. *"The Agency has long recognized that used oil management standards drawn too stringently could be counterproductive: that by imposing too high a cost on acceptable forms of recycling, the regulations could actually encourage increased dumping and other environmentally undesirable practices by generators, commercial haulers, and others."* Accordingly, EPA's used oil management regulations appropriately encourage the burning of used oil for energy recovery.

Unfortunately, EPA's proposed solid waste rule would abandon this long-standing policy by identifying off-specification used oil as a solid waste under the Resource Conservation and Recovery Act. This change in the law would mean that a service station that receives DIY oil would have to send it out for testing before they could burn it. If it turns out to be off-specification (which may be the case for a very small percentage of the oil), the service station then would have to send that used oil to a commercial and industrial incinerator.

As practical matter, no small business is going to be willing to either incur the cost of testing the oil or of sending any oil to an incinerator. As a result, automotive maintenance facilities across the country will stop accepting DIY used oil. If this collection system is eliminated when EPA finalizes its rule, our concern is that much of the used oil that for many years has been safely burned for heat in industrial furnaces, industrial boilers, utility boilers, and space heaters could end up being improperly disposed of on the ground or down the drain. This extremely negative unintended consequence would also effectively eliminate small business automotive service facilities' ability to qualify for the CERCLA Service Station Dealer Exemption from crushing third-party offsite pollution liability.

Currently, it is estimated that some 350 million gallons of used oil are already improperly disposed of annually, mostly by DIYs. Rather than adopting policies that could increase dramatically the amount of used oil improperly disposed of, EPA should be doing all it can to increase the amount of used oil flowing into the legitimate recycling system. In fact, this should be a high priority for EPA given that the used oil from just *one* oil change can contaminate 1 million gallons of fresh water – a year's supply for 50 people.

Please carefully examine any unintended negative consequences of your proposal. If for no other reason than to protect our Nation's waterways, EPA must not undermine the current used oil management system that has worked so well for so many years.

Sincerely,