ENVIRONMENTAL PROTECTION AGENCY

[FRL–6003–3]

Request for Comment on Proposed Statement of Policy Regarding Spent Antifreeze

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for Comment on Proposed Statement of Policy.

SUMMARY: EPA is currently considering issuing a statement announcing that data available to the Agency indicates that spent antifreeze rarely fails the Toxicity Characteristic Leaching Procedure (TCLP) test. The TCLP is used for determining whether or not a secondary material that is a solid waste is subject to regulation as a hazardous waste by virtue of exhibiting a ''toxicity characteristic'' (TC). The purpose of such a statement and any supporting information would be to assist generators in determining whether their spent antifreeze exhibits a hazardous waste characteristic. In today's notice, EPA is providing the data and qualitative information that we would use to support such a finding. The public has 60 days from publication of this notice to comment on whether it is appropriate to issue this statement given the available data.

DATES: Comments are due by June 22, 1998.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–98–SAFA–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–98–SAFA–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD 703 412–3323.

For information on specific aspects of the supporting materials in the docket, contact Stephen A. Bergman, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (703) 308–7262, bergman.stephen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice is also available in electronic format on the Internet. Follow these instructions to access the notice.

WWW: http://www.epa.gov/osw/hazwaste.htm#id
FTP: ftp.epa.gov
Login: anonymous
Password: your Internet address
Files are located in /pub/epaoswer

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register** or in a response to comments document placed in the official record for this notice. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form.

Potential Policy

In 1995, the Antifreeze Coalition [1] requested that EPA, by rule, categorically exclude used antifreeze from either the definition of solid waste or the definition of hazardous waste. The Coalition argued that such a determination is justified by the diminimis potential for spent antifreeze to pose a hazard to the environment and that it would significantly encourage greater recycling of spent antifreeze. As part of its effort to demonstrate to the Agency that it is inappropriate to regulate spent antifreeze as a hazardous waste under RCRA, the Coalition has provided the Office of Solid Waste (OSW) with both quantitative and qualitative information indicating that spent antifreeze rarely fails the TC for lead. The Coalition also has provided information on various changes in radiator technology that greatly reduce the chance that spent antifreeze would fail the TC for lead. The Coalition believes that the available data supports this conclusion.

Spent antifreeze that does not fail the TC for lead would not be regulated by EPA as a hazardous waste. This would be true unless some other constituent of concern is present that is not normally found in spent antifreeze or some other factor causes the spent antifreeze to meet the definition of hazardous waste. OSW has reviewed all of the existing data submitted to EPA in order to make a determination as to whether spent antifreeze fails the TCLP for lead and therefore meets the RCRA definition of hazardous waste. Of course, states authorized to implement the RCRA program may be more stringent than the federal program and therefore may regulate spent antifreeze as a hazardous waste even if it does not fail the TCLP for lead.

Although the Antifreeze Coalition has requested that EPA exclude spent antifreeze from the definition of solid waste or the definition of hazardous waste by rule, the Agency is not convinced that the expenditure of resources and time on a rulemaking is appropriate or necessary in this case. EPA believes that a statement of policy should be sufficient to address questions regarding the status of spent antifreeze. Based upon our review of the data in the docket, OSW has determined that it is appropriate to issue a statement announcing that data available to EPA indicate that spent antifreeze rarely fails the TC for lead. The information provided by the Antifreeze Coalition also indicates a trend away from the use of lead in the manufacture of radiators, thus decreasing the chance in the future that lead will be present in spent antifreeze at levels that would render the antifreeze hazardous.

The effect of an EPA statement on this issue (unless EPA receives comment on

[1] The Antifreeze Coalition is a group of trade associations representing antifreeze manufacturers, suppliers, distributors, recyclers, and businesses that service motor vehicle cooling systems. Most of these trade associations predominantly represent small businesses.

this notice that convinces us that our present evaluation is incorrect) would be to assist the industry in making a determination (as is required under 40 CFR 262.11(c)), on whether the spent antifreeze it generates exhibits a hazardous waste characteristic. Under § 262.11(c) the generator may either test the waste or rely upon its knowledge of the waste in light of the materials or processes used to make a determination as to whether it meets the definition of a hazardous waste. EPA's statement on this issue would assist the generators by directing them to a compilation of data which they could rely on or give weight to when making their hazardous waste determination. Although EPA believes that generators will find that spent antifreeze rarely fails the TC for lead and is therefore not a hazardous waste, there may be factors (e.g., spent antifreeze from an old vehicle that has not had the antifreeze changed for many years) known to the generator that increase the likelihood that a particular sample may be more likely to fail the TC than the spent antifreeze that is typically generated. The generator is responsible for taking such factors into account. Of course, a statement by EPA that antifreeze rarely fails the TC would not absolve generators of spent antifreeze from their obligation to make a correct § 262.11(c) determination.

The Agency is seeking comment on whether the information we are providing today supports a claim that spent antifreeze rarely fails the TC for lead. We are also seeking any additional data on the composition of spent antifreeze, particularly as they pertain to lead content. EPA is also seeking comment on whether we have properly limited the scope of our evaluation to the presence of lead in spent antifreeze, or whether there are other constituents of concern commonly present in spent antifreeze that would render it a hazardous waste under RCRA. Finally, the Agency solicits information on changes in automotive radiator manufacture that reduce or eliminate concerns about lead.

The information in the docket for today's notice falls into three main categories. The first of these is the TCLP data. We have included raw data submitted to the Agency by both Safety-Kleen and the Dames & Moore antifreeze study (conducted for the New Jersey Automobile Dealers Association). The raw data were organized and analyzed by Science Applications International Corporation (SAIC), an EPA contractor. The July 22, 1997 SAIC report in the docket is an analysis of the data contained in today's notice. The two spreadsheets of data that were prepared by SAIC and used to draft their report are also included. One contains raw data with no calculations. The other is sorted by constituent and concentration value. The Antifreeze Coalition also provided a summary and discussion of the data evaluated in the SAIC report and included in the docket for this notice. In addition to the data from Safety-Kleen, we have included a number of letters from Safety-Kleen and others that endeavor to put the data in its proper context. The Dames & Moore report, which concluded based on its data that ''antifreeze analyses indicate that antifreeze collected directly from automobiles lacks the characteristics of a hazardous waste,'' (p.7) is also included in the data portion of the documents placed in the docket for today's notice. The report represents a cross-section of the antifreeze used in automobiles. Spent antifreeze was collected from a variety of dealerships, including large, multi-brand dealerships. Based on consultations with the New Jersey Department of Environmental Protection and Energy, nine dealerships were chosen to participate in the study.

In addition to the TCLP data and analyses, the docket includes qualitative information provided to EPA by the Antifreeze Coalition. These documents include information on radiator technology and on the manner in which spent antifreeze is managed. Included in this category are the ''Voluntary Management Standards for Used Antifreeze Generator Facilities'' prepared by the Antifreeze Coalition. Although not legally binding, these are practices that the Coalition supports to promote the environmentally sound recycling of spent antifreeze. Although this document does address whether spent antifreeze fails the TC for lead, it is useful as background material to anyone desiring a broader understanding of how this material is managed and the industry's efforts to promote environmentally sound recycling. EPA strongly supports environmental sound recycling as the preferred method for managing spent antifreeze.

The Antifreeze Coalition documents also contain considerable information concerning changes in the manufacture of radiators. As stated above, EPA believes the trends in radiator manufacturing substantially diminish the likelihood that spent antifreeze will contain lead in levels that would fail the TC.

Documents pertaining to ethylene glycol comprise the third category into which the documents in the docket for today's notice fall. These are assorted letters and memoranda pertaining to whether or not there is a risk posed by ethylene glycol. There is also general discussion of the regulation of ethylene glycol-based antifreeze which, although not relevant to whether spent antifreeze fails the TC, may be useful as background information on the properties of spent antifreeze.

OSW will evaluate and thoroughly consider all of the comments we receive on this notice during the 60 day comment period prior to making a final decision on this issue.

Dated: April 9, 1998.

Matt Hale,

Acting Director, Office of Solid Waste.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–6001–5]

National Environmental Justice Advisory Council; Notification of Meeting and Public Comment Period(s); Open Meetings

Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, we now give notice that the National Environmental Justice Advisory Council (NEJAC) along with the subcommittees will meet on the dates and times described below. All times noted are Pacific Daylight Time. All meetings are open to the public. Due to limited space, seating at the NEJAC meeting will be on a first-come basis. Documents that are the subject of NEJAC reviews are normally available from the originating EPA office and are *not* available from the NEJAC. The NEJAC and subcommittee meetings will take place at the Oakland Marriott City Center, 1001 Broadway, Oakland, California 94607, phone: 510/451–4000. The meeting dates are May 31, 1998 through June 3, 1998.

The NEJAC meeeting will begin Sunday, May 31 with a bus tour of local environmental justice sites and a community poster session from 12:00 p.m. to 4:30 p.m. Public comment periods are scheduled for Sunday, May 31 from 6:00 p.m. to 9:00 p.m. and Monday, June 1 from 1:30 p.m. to 4:30 p.m., and 6:00 p.m. to 9:00 p.m. The full NEJAC will convene Monday, June 1 from 9:00 a.m. to 12:00 p.m., and on Wednesday, June 3 from 9:00 a.m. to 6:00 p.m. to follow-up on pending items from the previous NEJAC meeting, to discuss the creation of the new Air and Water Subcommittee, and to address several new business interest items. The