

US EPA ARCHIVE DOCUMENT

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Office of Solid Waste

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# Environmental Fact Sheet

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## Opportunity for Comment on Regulatory Status of Spent Catalyst Wastes

*The Environmental Protection Agency (EPA) is providing the public an opportunity to comment on Agency memoranda explaining how current RCRA regulations apply to spent catalyst wastes removed from dual purpose hydroprocessing reactors at petroleum refineries. The regulations addressed in these memoranda were promulgated under the Resource Conservation and Recovery Act (RCRA) on August 6, 1998 (63 FR 42110) and among other things, listed spent hydrotreating catalysts (K171) and spent hydrorefining catalysts (K172) as hazardous wastes.*

### Background

On August 6, 1998, EPA listed as hazardous wastes spent hydrotreating catalysts (K171) and spent hydrorefining catalysts (K172) generated by petroleum refineries (63 FR 42110). EPA took no action with regard to a third type of spent catalysts generated by petroleum refineries, spent hydrocracking catalysts.

After publication of the final rule, EPA received inquiries regarding the scope of the final listing descriptions and the regulatory status of spent catalysts removed from petroleum hydroprocessing reactors that perform both hydrotreating and hydrocracking functions (*i.e.*, spent catalysts from dual purpose reactors). Such dual purpose reactors perform functions meeting both the definitions of "hydrotreating" and "hydrocracking" provided in DOE's Petroleum Supply Annual (PSA) and presented in the preamble to the August 6, 1998 listing determination.

The Agency distributed two memoranda explaining the regulatory status of spent catalysts from dual purpose petroleum hydroprocessing operations. The memoranda are dated November 29, 1999 and June 1, 2000 and explain that spent catalysts removed from dual purpose reactors, or hydroprocessing reactors that perform hydrotreatment or hydrorefining functions while simultaneously hydrocracking petroleum feedstock, meet the listing description of K171 or K172 and must be managed as listed hazardous wastes.

In February 2000, API filed a lawsuit in the D.C. Circuit challenging the validity of the November 29, 1999 memorandum. *API v. EPA, Docket No. 00-1069*. In June 2001, API and EPA entered into an agreement settling the second lawsuit. Under the terms of the settlement agreement EPA agreed to publish an announcement offering the opportunity for public comment on the regulatory interpretation contained in the memoranda.

## **Action**

EPA is providing notice of the public's opportunity to comment on the memoranda issued by the Agency on November 29, 1999 and June 1, 2001 and explaining the regulatory status of spent catalysts removed from petroleum refinery dual purpose hydroprocessing reactors. Comments on the regulatory interpretation provided in the memoranda will be accepted for 60 days following the publication of the notice in the *Federal Register*.

EPA will evaluate comments received and publish a response to comments in the Federal Register announcing its intention either to reaffirm (and possibly clarify) the memoranda, or to take a different approach, based on the comments received. EPA will continue to apply the approach set forth in the memoranda during the pendency of this proceeding.

## **For More Information**

The Federal Register notice, this fact sheet, and related documents are available on the Internet at <http://www.epa.gov/epaoswer/hazwaste/id/petroleum/catalyst.htm>. For additional information, or to order paper copies of any documents, call the RCRA Call Center. Callers within the Washington Metropolitan Area please dial 703-412-9810 or TDD 703-412-3323 (hearing impaired). Long-distance callers please call 1-800-424-9346 or TDD 1-800-553-7672. The RCRA Call Center operates weekdays, 9:00 a.m. to 5:00 p.m. Address written requests to: RCRA-Docket@epa.gov or RCRA Information Center (5305W), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-0001.