



April 4, 2013

Kenneth L. Kimmell, Commissioner  
Commonwealth of Massachusetts  
Department of Environmental Protection  
One Winter Street  
Boston, MA 02108

**Re: Petition for Adoption of Regulations by Heritage-Crystal Clean, LLC  
Pursuant to 310 C.M.R. 2.00 and General Laws c. 30A, § 4  
Encouraging the Re-Refining of Used Oil**

Dear Commissioner Kimmell:

Pursuant to 310 C.M.R. 2.02 and Section 4 of the Massachusetts Administrative Procedure Act, G.L. c. 30A, Heritage-Crystal Clean, LLC petitions for the adoption of a new state hazardous waste regulation that would regulate used oil destined for recycling by re-refining consistent with used oil recycled by being burned for energy recovery.

### **Introduction**

As the regulations now read, generators are not required to manifest or obtain Regulated Recyclable Material permit for the off-site shipments to used oil marketers of specification used oil fuel (MA-97) or off-specification used oil fuel (MA-98) being recycled for energy recovery. Manifests or Regulated Recyclable Material permits are required for shipments of used oil going for re-refining. Many generators of used oil are small businesses, such as auto body shops and garages. The added burden of completing manifests or the paperwork to obtain a Regulated Recyclable Material permit, and the associated permit fee, discourages many generators from managing their used oil as a regulated recyclable material.

Making matters worse, under the current Hazardous Waste Transporter Fee Schedule, waste oils shipped as used oil fuels (waste codes MA97 and MA98) are exempt from a fee but the same material shipped as waste code MA01 destined for recycling by re-refining is subject to the fee. Allowing used oil burned for energy recovery to be transported as MA97 or MA98 without a permit but requiring permits for used oil sent for re-refining (which have to be shipped under the MA01 waste code) means that the shipments to re-refineries are biased by the transporter fee.

The purpose of this petition is to level the playing field. Given the well-established environmental benefits of re-refining, this result is counterproductive. Simply put, the regulatory program should not discourage a more environmentally favorable end-use for used oil. The used oil is a renewable resource and is not consumed like it is when burnt for energy recovery. Used oil shipped for re-refining should be regulated as used oil fuels, allowing marketers to accept the material without manifests or the Regulated Recyclable Material permits.

Please notify me in writing, within ten days of your receipt of this petition, that notice and a public hearing on the proposed regulation will be provided in accordance with the procedures set forth at 310 C.M.R. 2.06. It is our hope that this petition will result in timely regulatory amendments that will encourage responsible recycling, reuse and reclamation of used oil in the Commonwealth.

### **Petitioner's Background**

Heritage-Crystal Clean, LLC (HCC) is an environmental services company with a focus on small to mid-size businesses, providing both parts cleaner equipment and service, hazardous and non-hazardous waste collection, and used oil transportation and re-refining. HCC has been licensed by the MassDEP to transport hazardous waste in Massachusetts.

### **Environmental Benefits of Re-refined Oil**

Re-refined oil is a product that was originally used as a lubricant, and has been recovered and recycled so that it can be used again as a lubricant. During normal use, the oil itself does not break down, it just gets dirty. The HCC re-refining process recovers the valuable lube oil through a series of steps. First, used oil is collected from thousands of generators and delivered by truck or railcar to the company's re-refinery in Indianapolis, Indiana. The collected used oil is tested to make sure it has the appropriate characteristics for re-refining. Next, the oil goes through a vacuum distillation process that removes the light contaminants such as water and fuel, followed by a step that extracts the heavier components into an asphalt product. The remaining material proceeds to a hydrotreater which exposes the oil to hydrogen gas at high temperature and pressure, in the presence of a catalyst, to remove trace impurities. The resulting product is lubricating base oil, which is sold as the principal ingredient in the manufacture of automotive and industrial lubricants.

HCC's re-refined base oil is classified as an American Petroleum Institute Group II product, a quality grade equal or superior to the majority of virgin base oils produced and sold in the United States. The environmental benefits of re-refined oil are well known. Re-refining used oil reduces the demand on natural resources by using less crude oil. One gallon of used oil makes 2.5 quarts of re-refined oil; in contrast, it takes 42 gallons of crude oil to make 2.5 quarts of virgin oil. Also, because the used oil used to produce re-refined oil is not discarded, the re-refining process acts to reduce air pollution from oil burning. According to the California Department of Resources and Recycling, the production of re-refined oil requires one-third the energy needed to refine crude oil. Using re-refined oil also saves money on fleet maintenance costs because the fleet owners can continually have their oil recycled.

Top automobile manufactures, such as Ford, GM, and Mercedes, have all studied the use of re-refined oil, and have gone on record stating that its use does not affect the manufacturer warranties on engines.

The use of re-refined oil has been encouraged by the Massachusetts Operational Services Division, USEPA, and the federal government. As stated on the website of the Executive Office for Administration and Finance,

Refining oil offers both economic and environmental advantages. Used oil can be re-refined and reused indefinitely, thus eliminating the need to purchase virgin oil. Because recycled oil used to manufacture re-refined oil is not discarded into the waste stream, the recycling/re-refining process serves to eliminate air pollution from oil incineration and potential water pollution caused by improper dumping. Moreover, purchasing re-refined oil reduces our dependence on foreign oil.

<http://tinyurl.com/b3fqo6m>

Another benefit of re-refining used oil over burning for fuel is the reduced environmental impact by not combusting used oil. In the re-refining process, heavy metals present in used oil, such as cadmium, chromium, and lead are extracted from the used oil. In contrast, when used oil is instead burned for fuel, abatement equipment is relied upon to capture the emissions prior to release to the atmosphere. The emissions are dependent upon the quality of the pollution control equipment, and the volume of oil burned in a cement kiln or regulated unit (see the chart on p. 7-9 of *Used Oil Re-refining Study to Address Energy Policy Act of 2005*, [http://fossil.energy.gov/epact/used\\_oil\\_report.pdf](http://fossil.energy.gov/epact/used_oil_report.pdf)).

### **Proposed Changes to Regulations**

Initially, we believe a definition of “re-refining” should be added to 310 CMR 30.010. Then, the following section can be added to 310 CMR 30.255:

“(13) The following criteria shall be used to determine whether or not a person is a "marketer" of used waste oil destined for re-refining. A person is a "marketer" of used waste oil destined for re-refining if that person is any of the following:

(a) A transporter licensed pursuant to 310 CMR 30.800 and who transports used waste oil destined for re-refining to other authorized marketers of used waste oil destined for re-refining, or to persons who are authorized to re-refine the used waste oil.

(b) A generator of used waste oil who sells or otherwise transfers, or offers to sell or otherwise transfer, used waste oil directly to persons authorized to re-refine the used waste oil.

(c) A facility that re-refines used waste oil but also markets used waste oil destined for re-refining to other re-refiners.”

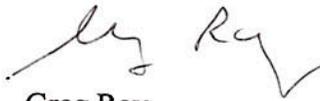
Rather than propose additional detailed changes, we suggest that, in light of the intricacy of the Massachusetts regulations, that the DEP build a set of regulations based these

definitions that are analogous to the regulations in 30.255 for used oil fuel marketer notifications. This would include appropriate testing of the oil for parameters a re-refiner would require and any minimum standards for the oil to be re-refined. The regulations might also state that the oil cannot be a hazardous waste, provide for the use of shipping papers, describe the destination facilities for marketers of used waste oil sent for re-refining and further provide recordkeeping, reporting, and related duties.

### **III. Conclusion**

We believe it is important for the Department to level the playing field by subjecting used oil sent for re-refining to a similar set of regulatory controls as used oil burned for energy recovery. We are willing to work with the Department on the necessary changes but believe the time is right for this new rule change.

Very truly yours,

A handwritten signature in black ink, appearing to read "Greg Ray", with a stylized flourish at the end.

Greg Ray  
Chief Operating Officer

cc: William Sirull  
Giles Steele -Perkins  
Philip L. Comella  
Anita Pendry  
Catherine McCord