



Statement of NORA, An Association of Responsible Recyclers Concerning A.B. 628

April 17, 2015

NORA, An Association of Responsible Recyclers (formerly the National Oil Recyclers Association) offers the following comments on A.B. 628, a bill intended to encourage greater use of “biosynthetic”¹ lubricants in the State of California. NORA is a national trade association who members collect, transport, process, and re-refine used oil throughout the United States and Canada. NORA members also collect and recycle used antifreeze, parts cleaning solvents, wastewater, oil filters and absorbents. NORA’s principal purpose is to enhance and expand legitimate recycling of valuable materials.

NORA does not oppose the promotion of non-petroleum based lubricants, often referred to as “bio-lubes.” NORA members will make every effort to meet the challenge of recycling these materials once they have served their original purpose. Several NORA members currently recycle biodegradable materials such as fats, oils and greases.

The primary problem presented by A.B. 628 is the oil recycling industry’s inability to collect, process and recycle used lubricants consisting of a *combination* of petroleum and biodegradable lubricants. Quite simply, the chemistry of these two categories of lubricants is too dissimilar to permit recycling of any mixture of these materials. Moreover, no technology is commercially available that can efficiently separate the animal and plant fat phase of the mixture from the petroleum phase.

The numerous specific technical problems with attempting to recycle used bio-lube materials include:

- The distillation of the bio-lube oil results in a solid bottoms residue (in contrast to a pumpable, viscous material from normal used oil re-refining that can be marketed as an asphalt additive).
- The distillation of the bio-lube oil creates a residue material that polymerizes in and plugs overhead condensers

Moreover, the yield of re-refined bio-lube feedstock material is 10 to 15 percent below that achieved from normal (petroleum-based) used oil.

In addition to the technology and chemistry obstacles that impede recycling of used bio-lube materials, another key problem is that the logistical structure for collecting and transporting bio-lube materials does not exist. After many decades of construction, a system currently exists (in California

¹ The term “biosynthetic” is not consistent with traditional definitions. For example, according to the U.S. Environmental Protection Agency, “synthetic oil [is] derived from coal, shale, or polymers,” and this “origin-based definition would not include animal and vegetable oils.” See EPA document 530-R-97-005d (RO 14090).

and throughout the United States) for storing, collecting, transporting and re-refining petroleum-based used oils. But this petroleum-based system cannot simply be expanded to encompass bio-lubricants because the materials -- from the re-refiner's perspective -- are entirely incompatible. To implement the objective of A.B. 628, a parallel system of storing, collecting, transporting and re-refining bio-lube materials would have to be constructed. This would take decades and cost billions of dollars. In addition, in view of the fact that very few bio-lube re-refining facilities currently operate or are planned for construction, the overall transportation costs to convey bio-lube materials from the many points of generation to a re-refining facility would be prohibitively expensive.

All of these issues point to significantly inferior economics of re-refining bio-based oils compared to traditional petroleum and synthetic lube oils. The inferior economics problems could only be overcome by massive and sustained subsidies by the taxpayers.

Another critical issue is the current regulatory structure governing the management of used oil -- all of which is based on the definition of used oil as "refined from crude oil." This definition is important because it is the basis for the exemption from hazardous waste regulation.² Without this exemption the oil recycling system in the United States could not exist. It may seem a relatively simple task for California to amend its current definition of used oil to include bio-lubes. However, that would not begin address the problem because the market for used oil is national in scope. Much of the used oil generated in California is recycled in other states. The definition of used oil would need to be amended by the U.S. Environmental Protection Agency as well as the fifty states and other jurisdictions.

In addition, NORA questions the ability of any state legislature to weaken the federal law that governs hazardous waste management and oil recycling. Under the Resource Conservation and Recovery Act ("RCRA") states may adopt laws and regulations that are more stringent than the federal law. However, states are precluded from adopting weaker laws and regulations governing solid and hazardous waste (and used oil). The used oil management standards, set forth in 40 CFR Part 279, constitute a very limited and narrowly defined exemption from RCRA's hazardous waste regulations. A state law intended to *expand* this exemption to cover more materials (such as bio-lubes) would be attempting to relax the basic hazardous waste rules. Such a law would immediately be challenged as unlawful under RCRA. In other words, only Congress has the authority to amend RCRA to permit the result that A.B. 628 tries to accomplish.

In conclusion, while A.B. 628 would attempt to advance the cause of bio-lubes, it does not -- and cannot -- resolve the major legal, technological and logistical obstacles to *recycling* bio-lube materials.

2 Without this exemption, all used oil would need to be tested to determine whether it failed any of the four hazardous waste characteristics. Such testing -- and its expense -- would derail recycling operations in California and throughout the United States.