

# Resource Conservation and Recovery Act Guidance: U.S. Environmental Protection Agency Addresses Unused Cigars/Cigarettes



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

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The United States Environmental Protection Agency (“EPA”) in a July 19th letter addressed whether:

... unused cigarettes and cigars made from tobacco are regulated as hazardous waste under the Resource Conservation and Recovery Act (“RCRA”) regulations when discarded.

EPA was responding to a June 8th email inquiry from Harmonized Customs Brokers, Inc. (“Harmonized”).

Harmonized is stated to have specifically asked whether cigarettes and cigars are considered P075 (“Nicotine & Salts”) listed hazardous waste due to the presence of nicotine in the tobacco.

EPA states in response that nicotine and its salts are among the commercial chemical products that are “P-listed” acute hazardous wastes in 40 C.F.R. 261.33(e) when discarded. Further, the federal agency states when discarded in unused form, nicotine and salts are considered P075.

The term “commercial chemical products” is defined as chemical substances that are either:

1. “Commercially pure grade of the chemical, any technical grades of the chemical; or
2. all formulations in which the chemical is the sole active ingredient.”

EPA notes that:

... Cigarettes and cigars made from tobacco are not in the form of pure or technical grade chemicals, nor are they formulations in which the chemical is the sole active ingredient. Therefore EPA does not consider unused cigarettes and cigars to be P075 listed hazardous wastes when discarded.

The agency does note as a caveat that while cigarettes and cigars are not considered to be P075 listed hazardous wastes and it has no evidence that cigarettes exhibit any of the four hazardous waste characteristics, it is the generator’s responsibility to determine whether or not they exhibit any of the hazardous waste characteristics under 40 CFR 261.21 – 261.24.

[A copy of the letter can be found here.](#)