



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

Solvent-Contaminated Wipes Exclusion/RCRA Guidance: U.S. Environmental Protection Agency Addresses Application of Recycling Provisions

08/07/2019

The United States Environmental Protection Agency (“EPA”) issued a June 11th interpretive letter addressing the Resource Conservation and Recovery Act (“RCRA”) solvent-contaminated wipes exclusions (“Exclusions”) found at 40 C.F.R. 261.4(a)(26) and 40 C.F.R. 261.4(b)(18).

EPA addressed whether the Exclusions preclude a RCRA generator from using other RCRA recycling provisions such as:

- Generator-controlled exclusion at 40 C.F.R. 261.4(a)(23)
- Recyclable material requirements at 40 C.F.R. 261.6

EPA first notes that nothing in the Exclusions preclude a generator from using other recycling provisions. This assumes the generator meets the applicable conditions.

Second, EPA states that the generator-controlled Exclusion at 40 C.F.R. 261.4(a)(23):

... excludes certain hazardous secondary materials from the definition of solid waste if they are generated and reclaimed under the control of the same person.

The Exclusion is deemed to potentially apply to the described scenario if the generator of the wipes meets the following conditions:

Conditions that the generator would need to meet under the generator-controlled exclusion can be found at 40 CFR 261.4(a)(23) and include, but are not limited to the following:

- The hazardous secondary material must be generated and reclaimed at the generating facility;
- The hazardous secondary material must be contained as defined in 40 CFR 260.10 (i.e., in a unit that is in good condition with no leaks or other continuing or intermittent unpermitted releases, among other things);
- The hazardous secondary material must not be speculatively accumulated, as defined in 40 CFR 261.1(c)(8);
- Notification is provided as required under 40 CFR 260.42;
- The hazardous secondary material is not otherwise subject to material-specific management conditions under 40 CFR 261.4(a) when reclaimed;

- Persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all three factors in 40 CFR 260.43(a) and how the factor in 40 CFR 260.43(b) was considered. Documentation must be maintained for three years after the recycling operation has ceased; and
- The emergency preparedness and response requirements found in subpart M of 40 CFR part 261 must be met.

Third, EPA states that characteristically hazardous wipes that have had the solvent removed by centrifuge would not need to be managed as hazardous secondary materials when they no longer exhibit a hazardous waste characteristic.

Finally, the federal agency states that the Exclusions were:

. . . developed to account for two, and management scenarios: “reusable” solvent-contaminated wipes that are typically sent for laundering and then returned to the facility to be reused in their processes and “disposable” solvent-contaminated wipes that are sent for disposal to a landfill or combustor.

The Exclusions are stated not to apply in the case of centrifuging solvent-contaminated wipes and then subsequent reuse or disposal of the separated solvent and recycling of the textile.

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