



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

Polyvinyl Chloride (PVC)/Resource Conservation and Recovery Act: U.S. Environmental Protection Agency Addresses Center for Biological Diversity Petition to List

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The United States Environmental Protection Agency (“EPA”) in a January 12th Federal Register Notice responded to a rulemaking Petition from the Center for Biological Diversity (“CBD”) requesting that discarded polyvinyl chloride (“PVC”) be listed as a hazardous waste under the Resource Conservation and Recovery Act (“RCRA”). See 88 Fed. Reg. 2089.

CBD submitted a Petition to EPA in 2014 requesting that EPA undertake such listing.

CBD and EPA previously entered into a subsequent Consent Decree requiring that the federal agency make a listing decision no later than January 20, 2023, pursuant to 40 C.F.R. 260.20(c).

EPA states it has tentatively decided to deny the Petition but is soliciting public comment on this initial decision.

EPA puts forth the reasons for its tentative denial of the CBD Petition as including:

1. Petition Does Not Adequately Support Regulation of Discarded PVC Under RCRA (stating there is not sufficient evidence that a listing would have a meaningful impact on reducing exposure to phthalates [including phthalates used as plasticizers in some PVC products])
2. EPA States it has Higher Priorities for Limited Available Resources (stating that listing hazardous waste is a resource-intensive process and the agency must carefully consider the 11 regulatory factors in 40 C.F.R. 261.11(a)(3)[arguing that the Petition discusses the factors but conflates exposure from the use of PVC with potential hazards from the treatment storage and disposal of PVC])

In addition to providing the reasons for EPA’s tentative denial of the Petition, the Federal Register preamble also addresses:

- Background on polyvinyl chloride and how it is regulated under RCRA
- Summary of the Petitioner’s requested changes
- How EPA is addressing discarded PVC

A copy of the Federal Register Notice can be downloaded [here](#).

