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# Variations from the Classification of Solid Waste/RCRA: U.S. Environmental Protection Agency Proposes to Grant Petition for Two Materials Proposed by Tucson, Arizona, Facility

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The United States Environmental Protection Agency (“EPA”) published a Notice of Tentative Decision (“NTD”) in the February 13th Federal Register proposing to grant a petition for variations from the classification of solid waste for two materials. See 88 Fed. Reg. 9277.

The NTD addresses two materials produced by HVF Precious Metals, LLC (“HVF”) at its facility in Tucson, Arizona.

40 C.F.R. § 260.30(c) of the Resource Conservation and Recovery Act (“RCRA”) regulations provides the EPA Administrator the authority to determine on a case-by-case basis the materials that have been reclaimed but must be further reclaimed before the materials are fully recovered to not constitute solid waste. Such a determination means that the referenced materials are then exempt from the RCRA hazardous waste regulations.

HVF is stated to have submitted a petition to EPA on July 26th addressing, as provided in the Federal Register Notice:

. . . two partially-reclaimed materials (“Solution Sweeps” and “Filter Sweeps”) produced at its Tucson, Arizona facility from precious metal-bearing waste from cyanide-based electroplating operations.

EPA has preliminarily determined that the two materials are “commodity-like” under the regulatory criteria identified in 40 C.F.R. § 260.30(c). As a result, EPA in the NTD finds that they are legitimately recycled. Such determination therefore qualifies them for variations from classification as solid waste under 40 C.F.R. § 260.30(c).

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