

# RCRA Guidance: U.S. Environmental Protection Agency Addresses Applicability of the Manufacturing Process Unit Exemption to Filter Canisters



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The United States Environmental Protection Agency (“EPA”) addressed in an October 3, 2016 memorandum the:

. . .applicability of the RCRA manufacturing process unit (MPU) exemption to hazardous wastes generated in and remaining in filter canisters which may be disconnected from an associated manufacturing process.

The MPU exemption is found at 40 C.F.R. § 261.4(c).

This exemption excludes from RCRA regulatory requirements otherwise applicable to generators of hazardous wastes:

Hazardous wastes which are exempted from certain regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under parts 262 through 265, 268, 270, 271 and 124 of this chapter or to the notification requirements of section 3010 of RCRA until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

EPA describes the MPU exemption as addressing the incidental hazardous waste generation during product or raw material storage, transport or manufacturing. The agency believes the materials would be adequately contained during such activities, since a regulatory exemption was promulgated to address this scenario. See 45 Fed. Reg. 72025 (October 30, 1980).

Previous guidance on the exemption stating it did not apply to disassembled units sent off-site for cleaning is cited in the October 3rd memorandum.

EPA notes that “questions have arisen about the applicability of the MPU exemption to filter canisters after they have been disconnected from an associated manufacturing process.” An example cited is:

A fuel cell technology used to convert natural gas to electricity may use desulfurization canisters to filter out sulfur compounds and may trap other substances, such as benzene, in a filter material within the canister. As part of the maintenance cycle, these desulfurization canisters are disconnected and replaced periodically. Disconnected canisters are not a part of the manufacturing process.

EPA concludes that hazardous wastes generated and present in filter canisters do not qualify for RCRA regulatory exclusion under the MPU exemption found at 40 C.F.R. § 261.4(c) once such canisters are disconnected from their associated manufacturing process. It further states that at that time, any hazardous wastes within the disconnected canister are subject to RCRA hazardous waste determination and any other applicable hazardous waste generator, transporter and treatment, storage and disposal facility requirements.

[A copy of the RCRA guidance document can be downloaded here.](#)