

# RCRA Guidance: U.S. Environmental Protection Agency Addresses Engineered Fuel Processed from Municipal Solid Waste



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The United States Environmental Protection Agency (“EPA”) addressed in a November 8, 2016 letter a request from VMS Environmental Development, LLC (“VMS”) asking whether:

...engineered fuel processed from municipal solid waste, called Biomass Derived Fuel (BDF) is a non-waste fuel under 40 CFR Part 241 Non-Hazardous Secondary Materials (NHSM) rule.

VMS described in a February 7, 2013 letter to ERR the BDF process including information regarding the company’s position that the materials should be considered a non-waste fuel in accordance with 40 CFR 241.3(b)(4).

The federal Non-Hazardous Secondary Materials rule generally establishes standards and procedures for identifying whether non-hazardous secondary materials are solid waste when used as fuel or processed in combustion units.

EPA notes that in order for the BDF to be designated as a non-waste fuel under the previously referenced section, the relevant regulations require that the processing of the non-hazardous secondary materials meet the definition of processing in 40 CFR 241.2 and the legitimacy criteria for fuels in 40 CFR 241.3(d)(1) after processing units that combust non-hazardous secondary materials as fuels that do not meet the referenced requirements must comply with applicable emissions standards issued under Section 129 of the Clean Air Act.

The November 8th EPA letter undertakes an analysis of the VMS material and concludes it would be considered a non-waste fuel under the 40 CFR Part 241 regulations provided:

...specifications outlined in your submittal are maintained including a moisture content of 2% or less (verified by daily composite sampling); and an ash content of 25% or less (on a dry basis verified by daily composite sampling).

The EPA also notes that to be considered a non-waste, the BDF must be combusted in a unit designed to burn coal, and use of the material cannot exceed 30 percent of the coal fuel required to operate the combustion unit.

The letter addresses:

- Processing steps
- Preliminary sorting and physical separation

- Low Temperature Mechanical Pyrolysis Process
- Legitimacy criteria
- Manage as a valuable commodity
- Meaningful heating value and used as a fuel to recover energy
- Comparability of contaminant levels

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