



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

NOW THE
OFFICE OF LAND AND
EMERGENCY MANAGEMENT

Ms. Aileen M. Hooks
Partner, Baker Botts L.L.P.
98 San Jacinto Blvd.
Suite 1500
Austin, Texas 78701

Dear Ms. Hooks:

Thank you for your letter dated April 5, 2019, requesting that EPA clarify that the RCRA solvent-contaminated wipes exclusions at 40 CFR 261.4(a)(26) and 40 CFR 261.4(b)(18) do not preclude a RCRA generator from using other RCRA recycling provisions, in particular the generator-controlled exclusion at 40 CFR 261.4(a)(23) or the recyclable material requirements at 40 CFR 261.6. Determinations of the RCRA regulatory status of a specific waste-stream are made on a case-specific basis by EPA or the authorized state. Thus, this letter does not constitute a binding determination and only provides EPA's general interpretation of the regulations.

First, nothing in the solvent-contaminated wipes rule precludes a generator from using other recycling provisions, including the generator-controlled exclusion, if the generator meets the applicable conditions.

Second, the generator-controlled exclusion at 40 CFR 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. This exclusion might apply to the wipe scenarios you described in your letter if the generator of the wipes meets the conditions described in the next paragraph.

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.

The condition above asserting that the hazardous secondary material is not otherwise subject to material-specific management conditions when reclaimed is not relevant to your scenario because the solvent-contaminated wipes are not reusable solvent-contaminated wipes sent for cleaning and reuse, which is the specific solvent-contaminated wipes exclusion found in 40 CFR 261.4(a). In addition, it is important to note that the recycling of the polypropylene textile by blending with virgin plastic would have to meet the legitimate recycling factors as described above in the sixth condition and the generator would need to maintain documentation of their legitimacy determination.

Third, 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.¹

Fourth, the solvent-contaminated wipes exclusions at 40 CFR 261.4(a)(26) and 40 CFR 261.4(b)(18) were developed to account for two common 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 solvent-contaminated wipes rulemaking does not apply to the situation you are inquiring about; that is, centrifuging solvent-contaminated wipes and then subsequent reuse or disposal of the separated solvent (isopropyl alcohol) and recycling of the polypropylene textile. The two wipes-specific exclusions are additional possibly applicable exclusions from regulation as solid and hazardous waste and do not preclude the applicability of other exclusions.

¹ If the wipes held listed hazardous waste solvent, the derived-from rule at 40 CFR 261.3(c) may apply, depending on how the wipes are managed.

Thank you again for your interest in the recycling of solvent-contaminated wipes. Since a state authorized to administer and enforce the RCRA program may be more stringent than the federal program, we recommend also consulting with the authorized state regulatory authority about any case-specific questions regarding the exclusions. In addition, the solvent-contaminated wipes exclusions and the generator-controlled exclusion are only applicable to facilities located in a state that has adopted those exclusions. If you have any additional questions for EPA staff, please contact Mary Beth Sheridan at Sheridan.marybeth@epa.gov or 703-308-4941.

Sincerely,



Barnes Johnson, Director

Office of Resource Conservation and Recovery

cc: Steven Cook
Daisy Letendre
Ann Inman
Eric Chancellor