

LEGAL UPDATES

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## EPA Issues Long-Awaited Rule Clarifying How to Manage Solvent-Contaminated Industrial Wipes

On July 31, 2013, the U.S. Environmental Protection Agency (EPA) issued a rule, effective Jan. 31, 2014, that provides new clarity on how industrial wipes that are contaminated with certain hazardous solvents must be managed under the Resource Conservation and Recovery Act (RCRA), the federal statute governing the disposal of solid and hazardous waste.

When a facility generates waste that meets the definition of “solid waste” or “hazardous waste,” that facility must comply with various RCRA requirements, such as shipping manifest rules and disposal facility restrictions. The EPA’s new rule revises the definition of “solid waste” contained in RCRA regulations to conditionally exclude solvent-contaminated wipes that are cleaned and reused (laundered or dry cleaned and used again), and it revises the definition of “hazardous waste” to exclude disposable solvent-contaminated wipes that are disposed (for instance, in a landfill or combustion unit). This new rule is based on a risk analysis conducted by the EPA, which concluded that solvent-contaminated wipes do not pose significant risk to human health and the environment when managed properly.

In order for solvent-contaminated wipes to qualify for the exclusion under the new rule, facilities that generate the contaminated wipes must satisfy various requirements: the wipes must be managed in closed, nonleaking, labeled containers; the wipes cannot contain free liquids when sent for cleaning or disposal; the wipes may not be accumulated for longer than 180 days; and the generator must comply with certain recordkeeping requirements.

Even if these requirements are satisfied, not all solvent-contaminated wipes can qualify for the exclusion. Wipes contaminated with trichloroethylene, free-liquid-spent solvent, a listed waste other than a solvent or exhibiting a

hazardous characteristic originating from something other than the solvent are not covered by the exclusion.

## **What This Means to You**

Tens of thousands of facilities nationwide across many industrial sectors utilize wipes – such as reusable shop towels, rags, disposable wipes and paper towels – in conjunction with solvents for cleaning and for other purposes. In the past, the hotly debated rules and interpretation of those rules regarding how to manage solvent-contaminated wipes have been confusing and inconsistent. The EPA has received inquiries and rulemaking petitions from parties concerned that the regulations were too stringent in light of the risks – or lack thereof – that solvent-contaminated wipes pose. The EPA has stated that it issued this new rule in order to provide a more consistent and less confusing regulatory framework, while maintaining protection of human health and the environment.

The EPA has estimated that the final rule will also result in reduced compliance costs, resulting in a net savings of \$18 million per year in avoided regulatory costs and between \$3.7 million and \$9.9 million per year in other expected benefits, such as pollution prevention, waste minimization and fire prevention. Thus, the new rule provides companies with clearer, more sensible and more standardized guidelines on how to manage and dispose of solvent-contaminated wipes.

Practically speaking, many companies now do not need to send the wipes to special disposal facilities or meet the full burdensome RCRA requirements. As a result, companies, especially those that use a heavy volume of wipes, will see substantial cost savings.

In most but not all states, the EPA has delegated the primary responsibility of implementing the RCRA program to individual states in lieu of federal regulators. The EPA's final rule explains that because the requirements and conditions in the rule are less stringent than those contained in the base RCRA program, authorized states may, but are not required to, adopt the EPA's new rule. However, the EPA encourages authorized states to adopt the rule as soon as possible to reduce the regulatory burden on businesses and to maximize national consistency, while maintaining protection of human health and the environment. It is possible some states will not adopt the EPA's rule, and those that do adopt the rule may not for some time. We can advise you on your specific situation and aid you in determining how wipes are handled in your state.

## **Contact Information**

If you have questions concerning this or other environmental issues, contact your Husch Blackwell attorney or one of our Environmental & Natural Resources attorneys.